

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CHARLES DEMPSEY, individually, and
L.D., by her father and natural guardian,
CHARLES DEMPSEY,

Plaintiffs,

Case No. 19:cv:6780

v.

THE CITY OF ROCHESTER, a municipal entity,
JAVIER ALGARIN, ADAM GORMAN, "JOHN DOE" RPD
OFFICER RESPONSIBLE FOR TRAINING JAVIER ALGARIN,

Defendants.

Deposition Upon Oral Examination of:

Charles R. Dempsey III

Location: City of Rochester Law Department
City Hall, Room 400A
30 Church Street
Rochester, New York 14614

Date: October 3, 2023

Time: 9:30 a.m.

Reported By: SANDRA C. HEWLETT, RPR
Alliance Court Reporting, Inc.
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Rochester, New York 14607



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A P P E A R A N C E S

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S T I P U L A T I O N S

TUESDAY, OCTOBER 3, 2023;

(Proceedings in the above-titled matter
commencing at 9:43 a.m.)

* * *

IT IS HEREBY STIPULATED by and between the
attorneys for the respective parties that this
deposition may be taken by the Defendants at this time
pursuant to notice;

IT IS FURTHER STIPULATED, that all
objections except as to the form of the questions and
responsiveness of the answers, be reserved until the
time of the trial;

IT IS FURTHER STIPULATED, that pursuant to
Federal Rules of Civil Procedure 30(e)(1) the witness
requests to review the transcript and make any
corrections to same before any Notary Public;

IT IS FURTHER STIPULATED, that if the
original deposition has not been duly signed by the
witness and returned to the attorney taking the
deposition by the time of trial or any hearing in this
cause, a certified transcript of the deposition may be
used as though it were the original;

IT IS FURTHER STIPULATED, that the
attorneys for the parties are individually responsible



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2 for their certified transcript charge, including any
3 expedite or other related production charges in
4 accordance with Rochester Rules;

5 AND IT IS FURTHER STIPULATED, that the
6 Notary Public, SANDRA C. HEWLETT, RPR, may administer
7 the oath to the witness.

8 * * *

9 CHARLES R. DEMPSEY III,
10 called herein as a witness, first being sworn,
11 testified as follows:

12 EXAMINATION BY MS. JONES:

13 Q. Good morning.

14 A. Good morning.

15 Q. My name is Peachie Jones. I'm an attorney
16 for the City of Rochester, as you know. I thank you
17 for being here today so I can take your deposition.

18 So you were here yesterday for your
19 daughter's deposition, so you know the same ground
20 rules, but I will still go over them. So you can ask
21 me any questions if you have them.

22 We have you placed under oath which means
23 you have to tell the truth, the whole truth. Like I
24 said yesterday, you're not offending anybody. Please
25 be honest so that we can have a good record for the



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2 case.

3 Wait to provide an answer. Wait to
4 provide your answer after I finish my question so the
5 stenographer can hear everything that I have said and
6 that you have said.

7 Because you are obligated to tell the
8 truth, make sure you hear my question and understand
9 it. If either of those are not true, will you please
10 tell me that you haven't heard or didn't understand my
11 question?

12 A. Yes.

13 Q. Of course, Elliott might object. That's a
14 verbal bookmark, so to speak. You still have to
15 answer unless he instructs you not to.

16 And then pronouns. We'll try and avoid
17 those as much as possible so it is clear who the "he,"
18 "she" and "we" is -- yeah. "He," "she" and "we." I
19 think that's it.

20 Did I miss anything from yesterday or do
21 you have any questions?

22 A. I don't have any questions.

23 Q. All right. Do you have any condition
24 whether mental, medical or physical that would impair
25 your ability to hear the questions I'm going to ask



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2 you today?

3 A. No.

4 Q. Do you have any conditions, whether
5 mental, medical or physical, that would impair your
6 ability to understand the questions I'm going to ask
7 you today?

8 A. No.

9 Q. Do you have any condition, whether mental,
10 medical or physical that would impair your ability to
11 respond to my questions today?

12 A. No.

13 Q. Have you consumed any alcohol in the last
14 24 hours?

15 A. No.

16 Q. Have you consumed any drug in the last 24
17 hours?

18 A. No.

19 Q. Have you consumed any medications in the
20 last 24 hours?

21 A. No.

22 Q. When did you learn that you were going to
23 undergo a deposition today?

24 MR. SHIELDS: Objection.

25 A. I understood that this was part of the



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2 process that I started four years ago -- five years
3 ago now. I mean it's part of the Court process
4 between the petition and a trial, I believe.

5 Q. What did you do to prepare for the
6 deposition today?

7 A. I met my attorney.

8 Q. Did you meet with anyone else to prepare
9 for today?

10 A. No.

11 Q. Did you talk with anyone other than your
12 attorney to prepare for the deposition today?

13 A. No.

14 Q. Did you review any documents in
15 preparation for your deposition today?

16 A. Yes.

17 Q. What documents did you look at?

18 A. I looked at the -- I don't recall the name
19 of the document, but the transcript from the previous
20 deposition of my mother.

21 Q. Is that Grandma Sherry?

22 A. That's correct.

23 Q. Did you review any other documents to
24 prepare for today?

25 A. I had reviewed the previous hearing that I



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2 had taken. 50-h. Something like that.

3 Q. Did you review any other documents?

4 A. No.

5 Q. Did you review any video in preparation
6 for the deposition today?

7 A. Yes.

8 Q. What video did you review?

9 A. Officer Algarin's body-cam footage.

10 Q. How many times did you watch it?

11 A. When it --

12 MR. SHIELDS: Objection.

13 A. How many times did I watch it when?

14 Q. When you were preparing for this
15 deposition.

16 MR. SHIELDS: Objection.

17 A. Recently I watched it once.

18 Q. Did you watch any other videos in
19 preparation for the deposition today?

20 A. No.

21 Q. Did you speak with anyone else other than
22 your attorney in preparation for this deposition?

23 A. No.

24 Q. Have you spoken with anyone other than
25 your attorney about the lawsuit that you're being



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2 deposed for today?

3 A. Yes.

4 Q. Who have you spoken to about the lawsuit?

5 A. My daughter, LD Dempsey. My mother,
6 Sherry Dempsey. My father, Charles Dempsey. I have
7 spoken to -- I mean immediate family.

8 Q. Who falls into the category of "immediate
9 family" other than your daughter, mother and father,
10 that have you spoken to about the lawsuit?

11 A. I have spoken to my brother. I mean
12 the -- the people that I live with. My girlfriend.

13 Q. Do you live with anyone else besides your
14 girlfriend?

15 A. My daughter.

16 Q. Are there anyone else in the category of
17 people that you live with?

18 A. No. No.

19 Q. How many brothers do you have?

20 A. Two.

21 Q. Which brother did you speak to about the
22 lawsuit?

23 A. Benjamin.

24 Q. Is his last name Dempsey?

25 A. That's correct.



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2 Q. Did you have -- have you spoken with
3 anyone else other than your daughter, mother, dad,
4 Brother Benjamin and girlfriend about the lawsuit?

5 A. In the last five years?

6 Q. Yes.

7 A. Yes.

8 Q. Who else have you spoken to about the
9 lawsuit?

10 A. I can't remember every time that it might
11 have come up, but I do recall speaking about it at
12 work to people who were inquiring as to what I was
13 doing about what happened to me.

14 Q. Who at work did you talk to about the
15 lawsuit?

16 A. Guys like Tom and Lee.

17 Q. Do you know Tom's last name?

18 A. Not off the top of my head.

19 Q. Do you know Lee's last name?

20 A. Johnson.

21 Q. Do Lee and Tom -- scratch that.

22 Are Lee and Tom your current co-workers?

23 A. Lee is retired. Tom works a different
24 shift.

25 Q. Did Lee retire from the place of



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2 employment that you currently have?

3 A. Yes.

4 Q. Where do you work?

5 A. United Parcel Service.

6 Q. What's your position there?

7 A. Pre-loader.

8 Q. What does a pre-loader do?

9 A. Picks stuff up and puts it down.

10 Q. Are you moving things from one location to
11 another?

12 A. For example, if somebody was to order
13 something from Home Depot, it would come off the UPS
14 truck and go through the warehouse and then my job is
15 to take it and load it on the appropriate delivery
16 vehicle and space.

17 Q. Was Lee also a pre-loader?

18 A. He was a yard guy, which meant he drove
19 the -- that -- the Mack truck. He moved the trailers.

20 Q. Did Lee work the same shift you did?

21 A. Yes.

22 Q. What shift was that?

23 A. Pre-load shift.

24 Q. What hours were your shift?

25 A. From midnight until 9 a.m.



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2 Q. What shift did Tom work?

3 A. Tom was a part-time employee. He worked
4 from midnight to 3:45 a.m.

5 Q. How many times did you speak with Lee or
6 Tom about -- how many times did you speak with Tom
7 about the lawsuit?

8 A. I don't recall.

9 Q. Can you give me an estimate?

10 A. I can recall one specific incident, but
11 there may have been more.

12 Q. I'm sorry.

13 Was that Tom or Lee?

14 A. You asked about Tom.

15 Q. Thank you.

16 How many times did you speak with Lee
17 about the lawsuit?

18 A. I don't recall a number. More than once.

19 Q. What's your full name?

20 A. Charles Richard Dempsey III.

21 Q. Does your dad go by "Junior"? Charles
22 Dempsey, Jr.?

23 A. He is.

24 Q. Did you speak with anyone else about the
25 lawsuit besides Tom, Lee and your family members and



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2 girlfriend that you mentioned?

3 A. I -- I don't recall.

4 Q. Do you go by "Charles"?

5 A. I prefer to go by "Chuck."

6 Q. Where were you born?

7 A. Genesee Hospital on Alexander Street in
8 Rochester.

9 Q. Where do you currently live?

10 A. In -- on Simpson Road.

11 Q. Where is that?

12 A. Rochester.

13 Q. How long have you lived on Simpson Road in
14 Rochester?

15 A. Past few years.

16 Q. Did you move to Simpson Road after
17 Kosciusko Street?

18 A. Yes.

19 Q. Do you know when you moved out of the
20 Kosciusko Street house?

21 A. That end of 2020.

22 Q. Did you rent or own the Kosciusko Street
23 house?

24 MR. SHIELDS: Objection.

25 A. Both. I bought the home from the guy I



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2 was renting it from.

3 Q. Did you have a mortgage?

4 A. For a period.

5 Q. At the time of the incident with the dog,
6 you had a mortgage? You were no longer renting?

7 MR. SHIELDS: Objection.

8 A. I was no longer renting.

9 Q. Had you already paid off your mortgage at
10 that time?

11 A. I believe so.

12 Q. Were you renting or buying the Simpson
13 Road address?

14 A. Buying.

15 Q. Are you married?

16 A. No.

17 Q. Have you ever been married?

18 A. No.

19 Q. Do you currently have a girlfriend?

20 A. Yes.

21 Q. What's her name?

22 A. Ashley.

23 Q. What's her last name?

24 A. Reichert.

25 Q. Can you spell that for us?



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2 A. R-E-I-C-H-E-R-T.

3 Q. How do you spell Ashley?

4 A. A-S-H-L-E-Y.

5 Q. Did you graduate high school?

6 A. Yes.

7 Q. Where did you graduate from?

8 A. Hilton.

9 Q. Did you pursue additional education after
10 high school?

11 A. Yes.

12 Q. Did you earn any additional degrees?

13 A. No.

14 Q. Where did you take classes after high
15 school?

16 A. Monroe Community College.

17 Q. Do you have any employment licenses or
18 certifications?

19 A. On -- I'm confused as to what that
20 includes.

21 Q. Do you have any special licenses that you
22 used for your employment?

23 A. Like I had a DOT license.

24 Is that something that would be included?

25 Q. Uh-huh.



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2 Do you still have a DOT license?

3 A. It may have expired.

4 Q. Was it a license or a certification?

5 A. A certification.

6 Again, I was confused what that includes.

7 Q. What was the certification for?

8 A. DOT is for driving. For driving the UPS
9 trucks.

10 Q. Okay. When did that lapse?

11 A. I don't know when it had expired.

12 Q. Did you have a commercial driver's
13 license?

14 A. A CDL, no.

15 Q. Do you have any children?

16 A. Yes.

17 Q. How many?

18 A. One.

19 Q. How long have you been a pre-loader at
20 UPS?

21 A. Since June of 2006.

22 Q. And when is your current shift?

23 A. From midnight to 9 a.m.

24 Q. Have you ever worked a shorter shift than
25 midnight to 9 a.m.?



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2 A. Yes.

3 Q. How long have you worked midnight to
4 9 a.m. most recently?

5 A. The last nearly two years.

6 Q. What hours did you work before midnight to
7 9 a.m.?

8 A. 9 a.m. to 9 p.m.

9 Q. How long did you work 9 a.m. to 9 p.m.?

10 A. From 2020 until -- or I believe I started
11 doing that at the very end of 2019 until I switched to
12 the current shift.

13 Q. What were your hours in 2019 before you
14 went to 9 a.m. to 9 p.m.?

15 A. 12:00 a.m. to like 3:30, 3:45 a.m.

16 Q. How long did you work from 12:00 a.m. to
17 3:45 a.m.?

18 A. Several years going back to about 2009 or
19 2010. I don't recall.

20 Q. Did you have an additional source of
21 employment or -- excuse me.

22 Did you have any additional sources of
23 income when you were working from 12 a.m. to 3
24 something a.m.?

25 A. Did I have another job during that time?



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2 Q. Correct.

3 A. No.

4 Q. Did you have another source of income
5 during that time?

6 A. No.

7 Q. Were you with Ashley from any point in
8 2009 to 2019?

9 A. Yes.

10 Q. Was she working during that time period?

11 A. Yes.

12 Q. Why did you choose to work part-time from
13 2009 to 2019 approximately?

14 MR. SHIELDS: Objection.

15 A. As a teamster, my position is granted
16 through seniority. I had to earn seniority to get a
17 full-time position.

18 Q. Are you saying you didn't have seniority
19 until 2019 approximately?

20 A. No.

21 Q. When did you first gain seniority in the
22 Teamsters?

23 A. I joined the Teamsters in 2006.

24 Q. When did you first become eligible to work
25 full-time?



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2 A. In 2006.

3 Q. So why did -- so were you eligible to work
4 full-time in 2009?

5 A. Was I eligible to work full-time in 2009?
6 Is that your question?

7 Q. Yes.

8 A. Yes.

9 MR. SHIELDS: Objection.

10 Q. Why did you choose to have only part-time
11 hours in 2009 to 2019?

12 MR. SHIELDS: Objection.

13 A. Because there -- there was not a seniority
14 for me to get a set position as a full-time employee.

15 To explain?

16 Q. Yes, please.

17 A. I would -- I would have then become a
18 floater, so instead of delivering one neighborhood, I
19 would deliver the neighborhood of the guy who called
20 in sick that day.

21 Q. So you were waiting for a specific
22 position?

23 A. As well as I was taking care of my
24 daughter as she was growing up at that time, so I
25 would not have been able to do that if I had taken the



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2 full-time role at work.

3 Q. Were there any other reasons that you
4 chose to have shorter hours from 2009 to 2019?

5 MR. SHIELDS: Objection.

6 A. I learned how to live on it. I was there
7 for my daughter. I was able to get her to all of her
8 appointments and her schools. It felt convenient.

9 Q. How much did you earn at UPS as a
10 pre-loader?

11 MR. SHIELDS: Objection.

12 A. Teamsters get contract wages each year.

13 Q. How much were you earning in 2018 at the
14 time of the incident?

15 A. I don't recall the specific wage, but it
16 was approximately -- just shy of \$20 an hour.

17 Q. Have you had any raises or increases to
18 your hourly wage since the time of the incident?

19 A. Yes.

20 Q. How much are you making now per hour?

21 A. Just over \$30 an hour.

22 Q. Did you have health insurance at the time
23 of the incident in 2018?

24 A. The incident?

25 Q. Yes.



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2 A. Did I have -- yes.

3 Q. Is that through your employment?

4 A. Yes.

5 Q. How long had you lived on Kosciusko Street
6 as of September 2018?

7 A. 11 years and some months.

8 Q. Did you like living in that area?

9 MR. SHIELDS: Objection.

10 A. Yes.

11 Q. Why?

12 MR. SHIELDS: Objection.

13 A. I was born in the City of Rochester. I
14 find that it is convenient to be close to the things
15 that I use and go to. It's a tighter community than
16 the neighborhood my parents were living at. The
17 flowers that grew in the backyard came all summer.

18 Q. Are you referring to your backyard?

19 A. My backyard on Kosciusko Street, that's
20 correct.

21 Q. Anything else that you liked about your
22 neighborhood at Kosciusko Street?

23 A. Less than a mile from my job. I could
24 take a poop on my lunch break.

25 Q. Will you describe your backyard at



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2 Kosciusko Street?

3 MR. SHIELDS: Objection.

4 A. From -- the south side -- from the south
5 side is a fence that is -- it's a metal fence that is
6 kind of a wire kind of fence, I guess you would say.
7 Link.

8 And there is a flowering tree to the east
9 corner of it.

10 Q. You know, I'm sorry. I don't do very well
11 with north, south, east and west. If you're standing
12 on your back porch, like on --

13 A. I would be looking south.

14 Q. Okay. Thanks.

15 A. So the east would be to my left.

16 Q. Okay. Go ahead.

17 Where was the flowering tree?

18 A. Honestly, I believe it's a bush. But --
19 so the back left corner standing from the porch would
20 have a bush. There -- fence goes along the property
21 line from east to west. And the west side is another
22 tree that grows at an angle over the corner of that --
23 over the corner of the fence there where it meets the
24 chain-link fence of my neighbor's house, of which
25 there's a black chestnut tree a few feet from that



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2 corner. It's very old.

3 Following that fence line, there is a
4 flowering -- there is two flowering bush -- bushes. I
5 think a -- purple and white flowers. Along the fence
6 line continuing is -- you know, there are other
7 flowers. Tulips come up and stuff like this.

8 There is a walkway, an old walkway that --
9 like sidewalk bricks kind of, like concrete. Along
10 the fence there. And there is another -- there is a
11 cherry tree continuing north. Along my neighbor's
12 chain-link fence there is a cherry tree. And then
13 past the cherry tree is another bush that makes these
14 white flowers in like late July, August. I don't know
15 the name of that either. But I always appreciated
16 that. And that's right along the back of my house of
17 which -- like right where the bush is, is -- is a door
18 to which -- which enters the basement of my home.

19 And then just, you know, a few feet from
20 there that begins my back porch. The porch continues
21 until the -- the other side of my house where -- at
22 that point, at the other side of the porch is a stairs
23 that you come down and -- in an eastward direction.

24 And then the yard encases the land between
25 my next neighbor's house, which is then, you know,



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2 continuing from -- if I was to be on the porch facing
3 south. We're now referring to my left and that would
4 be my neighbor's house which is larger than my house
5 as far as depth. So at my back porch, my neighbor's
6 house continues.

7 Um, there is a space in between the two
8 homes that's fenced in. So that would -- that would
9 include that in the yard.

10 And along that space is a sidewalk. And
11 there's a -- a fence at the front of that. And then
12 it's my neighbor's house. And then my neighbor has a
13 wooden fence, like a taller-than-me wooden fence that
14 covers his -- entire property line between mine and
15 his home going all of the way back to the -- the metal
16 fence that was -- that I started talking about with
17 the bush.

18 Q. Uh-huh.

19 A. And inside of the center of the yard was a
20 tree that has since collapsed. My friend told me not
21 to let that ivy grow up the tree. "It's not good for
22 it."

23 I was like, "Hey, it looks cool."

24 Sure enough. Ivy is not, you know, good
25 for a tree's health and that tree fell.



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2 Q. When did that tree fall down?

3 A. It was Halloween. I don't remember which
4 year exactly. But I remember it being Halloween
5 because it was scary.

6 Q. Was it standing at the time of the
7 incident with Tesla?

8 A. I don't recall.

9 Q. Was there anything else in your yard
10 besides a tree?

11 A. Yeah.

12 Q. What else was in your yard?

13 A. Are we referring to at the time of the
14 incident or are we referring to like over the years?
15 I spent a long time in that yard.

16 Q. Sure. We can talk about at the time of
17 the incident.

18 Was there anything inside your yard?

19 MR. SHIELDS: Objection.

20 A. There would have been -- obviously there
21 would have been the -- all of the stuff that we played
22 with the dog. She would scatter toys and favorite
23 sticks. There was a nice chunk from the cherry tree.
24 She would find that in a foot of snow.

25 There was a stone circle of which I would



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2 have fires in it. Up to that point I never -- I never
3 invited somebody to come back there again after that
4 incident.

5 The -- there was -- it would have had a
6 grill.

7 Q. Where was the grill?

8 A. I usually kept the grill against the
9 porch. Sometimes I would stash it on the porch for
10 winter, but I would usually have it like on the --
11 north side of the porch -- or south side of the porch.

12 Q. Can you think of anything else that would
13 have been in your yard at the time of the incident
14 with Tesla?

15 MR. SHIELDS: Objection.

16 A. It's difficult because I recently reviewed
17 that video and it's -- you got me trying to picture it
18 and I can't get over parts that I can't get over.

19 Can I just say I don't recall all of the
20 details of my yard?

21 Q. Sure.

22 Can you tell me how wide your porch --
23 your back porch is or was?

24 MR. SHIELDS: Objection.

25 Q. Can you tell me how wide the porch of



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2 Kosciusko Street is?

3 MR. SHIELDS: Objection.

4 A. Do you mean by depth or by -- I mean --

5 Q. Both.

6 A. Both. So I would -- the porch extends 5
7 or 6 feet from the back of the house and goes length
8 of the house from -- as I described before -- past the
9 basement door, so it goes from that length to the --
10 the end of the house where the stairs are. I would
11 assume that was approximately 17 feet and that's just
12 a guess.

13 Q. Do you know how many stairs there were
14 going from the top of the porch down to the ground --

15 A. I think four steps.

16 Q. -- at Kosciusko Street?

17 A. Sorry for interrupting you.

18 Q. Okay. What pets did you have in 2018, if
19 any?

20 A. Tesla, who you should be aware of. And I
21 had a cat named Kit.

22 Q. And we were referring to the cat yesterday
23 as KitKat, but is the name Kit?

24 A. KitKat is her whole name.

25 Q. Okay.



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2 A. I refer to her as Kit. We're buds.

3 Q. And Kit, KitKat, you -- know what -- you
4 okay. I'm referring to the cat.

5 Any other pets besides Tesla and KitKat?

6 A. Not that lived in the home.

7 Q. Did you -- okay. Well, what other pets
8 did you have?

9 MR. SHIELDS: Objection.

10 A. I sort of looked out for a neighborhood
11 cat. Looked just like my cat inside. Called "Out
12 Cat."

13 Q. Did KitKat know about Out Cat?

14 A. Yeah. She got a hold of her once. Not
15 too happy about sharing food. Or my affection. I
16 don't know how cats think, but...

17 Q. Any other pets you had?

18 A. No.

19 Q. When did -- so who did Tesla belong to?

20 A. Tesla was a family pet. I mean she had
21 her own heart.

22 Q. I'm sorry.

23 She had her own what?

24 A. Her own heart.

25 Q. When did y'all get Tesla?



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2 A. I believe 2016.

3 Q. Did y'all get Tesla for Christmas? Or was
4 that Savannah?

5 MR. SHIELDS: Objection.

6 A. I remember it being warm and grassy when I
7 brought Tesla to LD for the first time. Which does
8 not describe Christmas if I'm remembering right.

9 Q. Who took care of Tesla?

10 A. What do you mean by "took care"?

11 Q. What's your understanding of the word
12 "care," or to take care?

13 MR. SHIELDS: Objection.

14 A. To aid in food, shelter and hygiene.

15 Q. There you go.

16 Who participated in taking care of Tesla?

17 MR. SHIELDS: Objection.

18 A. Everyone in the home.

19 Q. Was Tesla licensed or registered in the
20 city?

21 A. Yes.

22 Q. Under whose name was Tesla licensed?

23 A. My name.

24 Q. Did Tesla have her shots?

25 A. Yes.



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2 Q. What veterinarian did you take Tesla to?

3 A. Multiple veterinarians.

4 Q. Did you use one vet more than others?

5 A. We often got recurring shots through the
6 Petco program at Petco.

7 Q. Do you remember the names of any other
8 veterinarians you used for Tesla?

9 A. Animal Hospital that's on Bay Street. I
10 believe it's called The Bay Street Animal Clinic or --
11 I got to be close. Something like that.

12 Q. And any other vets that you remember?

13 A. Not that I recall.

14 Q. Who would take Tesla to the veterinarian?

15 A. Myself.

16 Q. Anyone else?

17 A. Ashley would sometimes take her to get her
18 shots.

19 Q. What kind of exercise did Tesla get?

20 A. As I mentioned before, she loved sticks.
21 A lot of fetch. A lot of running. We would walk.
22 Play -- I don't know if you call it "exercise," but,
23 you know, Tom and Jerry with the cat and dog kind of
24 relationship. Activity. We would take Tesla for
25 walks. Hikes even.



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2 Q. Who would take Tesla for walks?

3 A. Myself.

4 Q. Would your daughter go with you when you
5 took Tesla for walks?

6 A. Yes.

7 Q. More often than not?

8 A. Yeah.

9 Q. So I feel like yesterday your daughter
10 said she didn't go on walks very often with Tesla.

11 MR. SHIELDS: Objection. She said --

12 Q. Do you have a different understanding?

13 A. In reference to walks locally in my
14 neighborhood.

15 Q. Okay. Would you go on walks with Tesla
16 other places?

17 A. Yes.

18 Q. Where would y'all walk with Tesla?

19 A. Well, we would walk when we -- at State
20 parks. Take her for walks along the riverway that I'm
21 looking at a picture of now. We would walk her -- the
22 City made a dog park that she was registered to. And
23 we would take her to the dog park. And then we would
24 walk along that park which is off of Culver Road here
25 in Rochester near the Water Authority.



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2 We would walk along the Maplewood Park
3 area where the bridge is across the Genesee River. We
4 would walk several -- I mean places all over New York
5 State. Stony Brook. Letchworth.

6 Q. So on a given week, would you take one of
7 these longer walks outside of the neighborhood with
8 Tesla?

9 A. I wouldn't say 52 times a year a given
10 week, but on average of multiple times a month, yeah.

11 Q. How many times did you walk around the
12 neighborhood with Tesla?

13 A. I would walk around the neighborhood with
14 Tesla more often when she was a puppy because it just
15 was -- you know, it just was a little easier.

16 Q. So in 2018, who fed Tesla?

17 A. Everyone in my house.

18 Q. Did y'all have a schedule for determining
19 who fed Tesla?

20 A. Not a schedule. We would just feed her in
21 the morning and feed her in the afternoon. Or
22 evening. Or the evening. However you want to phrase,
23 you know, dinnertime.

24 Q. Sure.

25 So when I said "schedule," I meant maybe



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2 like an assignment chart. So dad does Mondays, Ashley
3 does Tuesdays, your daughter does Wednesdays. That
4 type of thing.

5 Did you have some sort of set schedule for
6 who was responsible for feeding Tesla on any given
7 day?

8 MR. SHIELDS: Objection.

9 A. Not a schedule. Often Ashley would feed
10 her more frequently in the morning just because of
11 routine. But sometimes I would feed her in the
12 morning. Sometimes LD would feed her in the morning.

13 Q. Did Tesla indicate when she was hungry or
14 would y'all just feed her because it was dinnertime?

15 MR. SHIELDS: Objection.

16 A. I never wanted that dog to feel hungry. I
17 would always provide food. But if -- if Tesla wanted
18 attention from somebody in the house, she would have
19 no problem being close to us, licking us, cuddling us.
20 She would lay down on top of you.

21 Q. So did Tesla engage in any specific
22 activity when she was hungry or thirsty?

23 MR. SHIELDS: Objection.

24 A. If she was thirsty, she would pant.

25 Q. Can you think of anything specific she



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2 would do if she were hungry?

3 A. I can remember one time she kicked the
4 bowl at us. We had a metal bowl. I remember it being
5 empty and her kicking it. I thought well maybe we
6 should give her that dinner.

7 Q. What about when she needed to use the
8 bathroom? Did she indicate that in any way?

9 A. She would -- when a dog like needs to
10 poop, it would often sniff the ground.

11 Q. Did Tesla sniff the ground when she needed
12 to poop?

13 A. Sometimes. I would notice that behavior.
14 "Oh, maybe you need to go out."

15 Q. Was there any specific behavior when Tesla
16 needed to pee?

17 A. She might have -- no. I can't recall
18 specifically if she had a pee behavior. Standing at
19 the door maybe.

20 Q. Did y'all have some sort of schedule for
21 letting Tesla out to use the bathroom?

22 A. We had a routine. Just, you know, daily
23 life routine as we all have. But it was never a
24 schedule to make sure she gets out like that.

25 Q. What was the routine for letting Tesla out



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2 to use the bathroom?

3 A. Well, I would let Tesla outside whenever I
4 wanted to. And so -- to let her use the bathroom, you
5 know, I would -- you know -- when we would come home
6 from the grocery store. You know, we would be
7 cooking. When -- you know, it's just -- she's been
8 inside. It's been raining. Maybe we should let her
9 out. Just -- just seems like a regular day-to-day
10 activity.

11 Q. Was there anything that she would do to
12 indicate she wanted to go outside and play?

13 A. To go outside and play?

14 Q. Uh-huh.

15 A. She would bring toys to you. She would
16 hand them right to you.

17 Q. Did she do that when she, Tesla, wanted to
18 play inside?

19 A. She always wanted to be a part of what
20 anybody was doing. She was a huge part of our lives.

21 Q. I guess I'm wondering, did Tesla
22 communicate that? Was there anything specific she
23 would do when she wanted to play outside versus
24 inside?

25 A. I think that that would have been my call



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2 in any given situation if we were going to be inside
3 or outside, so I don't know if I ever categorized a
4 difference.

5 Q. Did you train Tesla to respond to
6 commands?

7 A. Yes.

8 Q. What commands did Tesla respond to?

9 A. First one she learned was "Sit." It was
10 instinctful for her. She would lay. She would roll
11 over and show her belly. You could never get her to
12 completely roll over. She was just comfortable
13 getting a treat after her belly was out.

14 When we were walking on a leash, I had,
15 you know -- we had to -- the "Heel" command to calm
16 down and wait at this intersection before we crossed
17 the road.

18 Q. You would say "Heel"?

19 A. That's correct.

20 She would -- she knew when it was food.
21 When we said "Food," she would go sit down and wait.

22 Q. Sorry.

23 When you said "Food," she would go and
24 wait by the bowl?

25 A. Well, she would understand that -- dogs



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2 learn with your habits. So when we would verbalize
3 "I'm going to feed you," she would try and get ahead
4 of the curve and be prepared.

5 Just like if we said we're going for a
6 walk, she would wag her tail and get prepared. "Let's
7 head out the door. What are we waiting for?"

8 Q. Any other commands?

9 A. I kind of thought for a while that I had
10 her trained to close the door on command. But that
11 just sort of wasn't -- she was so heavy, when she
12 jumped up and would push on it, it was enough to close
13 the door.

14 Q. What would you say to get her to close the
15 door?

16 A. "Who is it?"

17 Q. And any other commands that Tesla would
18 respond to?

19 A. "Give me kisses." "Who's your pup-pups?"
20 Which is like cuddling-type commands. She would just
21 come right up, curl right up to you. She would roll
22 and get her face as close as she could to mine and
23 then cover my glasses in dog drool, spit. She was
24 just licking my whole face.

25 Q. Would Tesla obey your commands if you said



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2 them just once?

3 A. Some of them more than others.

4 Q. So did that depend on the command or
5 situation?

6 A. The situation.

7 Q. Were there any -- so which commands would
8 you be more likely to have to repeat for her to
9 respond as you wanted?

10 A. "Calm down." You know, "Be quiet."

11 Like I said, I thought I had her -- I
12 thought I had her trained to go to the door and close
13 it, but that was just sort of me thinking that that
14 worked out because it worked out when it did. I would
15 like to believe that she would do it.

16 Q. So you didn't mention "Calm Down" in the
17 list earlier, but that's another command that she
18 would --

19 A. Kind of like I had referred to "Heel."
20 "Heel" is the word I would say on a walk. I wouldn't
21 say "Heel" and she would stop on a dime. I would --
22 "Heel" was just sort of meaning -- I'm saying
23 "Heel" because I'm not moving. You're on a leash and
24 we're working together here. So I was trying -- I
25 mean -- I'm not Cesar Millan.



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2 Q. Is "Calm Down" a command that she would
3 respond to?

4 A. No. The words "Calm Down," no.

5 Q. There is another command that you would
6 often have to repeat for her to respond to you as you
7 wanted?

8 A. I don't remember having to like try to
9 repeat over and over again anything.

10 Q. So walks were not quite on a weekly basis.
11 So was fetch a more frequent form of
12 exercise for Tesla?

13 A. Tesla loved fetch. And I would play fetch
14 with her until she stopped bringing it back, which
15 sometimes would last near an hour. Just throw the
16 stick. She would go find that thing. If we were on
17 the side of a mountain, she would find just the stick
18 I had just thrown and bring it right back to me. It
19 was instinctive of her. She -- she, you know -- she
20 was very happy during that time.

21 Q. Did you typically play fetch in your
22 backyard with Tesla?

23 A. Yes.

24 Q. Or did you -- did you play fetch in other
25 places with Tesla?



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2 A. Yes.

3 Q. On a given week what was the more common
4 location for playing fetch with Tesla?

5 A. The backyard of my house on Kosciusko
6 Street.

7 Q. How -- how many times a week would you
8 play fetch with Tesla? Back in 2018.

9 A. I would say over two dozen.

10 Q. Two dozen times each week?

11 A. Yeah. I mean a game of fetch can last a
12 few minutes and we would play multiple times a day.

13 Q. And when I say "you," I'm referring
14 specifically to you playing two dozen times with
15 Tesla?

16 A. That's correct.

17 Q. Okay. What about Ashley? How often would
18 she play fetch with Tesla?

19 A. Ashley prefers to play fetch with tennis
20 balls over sticks. I -- I prefer sticks. But we
21 would play -- when we would go to parks -- I don't
22 know if you ever seen one of those little chuck-it,
23 mini lacrosse sticks. We have one of those. We would
24 go to the park at the end of -- it's near Durand
25 Beach. There's an open field area that nobody is ever



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2 there. We would go -- she would often -- your
3 question was how often?

4 Q. Yes.

5 A. It would -- situationally. When we were
6 out in a place where she could throw. She would throw
7 a ball in the backyard occasionally when she was back
8 there.

9 Q. How often would your daughter play fetch
10 with Tesla?

11 A. When she was playing with her. It was --
12 I mean this was her favorite thing to do.

13 Q. It was Tesla's favorite thing to do or
14 your daughter's?

15 A. I always considered fetch was Tesla's
16 favorite thing to do.

17 Q. Did your daughter play fetch with Tesla as
18 often as you did?

19 A. I would say no. Because I played fetch
20 with her a lot.

21 Q. Did Tesla use the bathroom in any specific
22 place in the house or yard?

23 A. I'm not -- around the yard. Just sort
24 of -- she didn't have like a premium section of the
25 yard where she preferred. But she did -- she did like



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2 to run into it kind of.

3 Q. I don't understand what that means.

4 What do you mean by "run into it"?

5 A. So before a dog takes a poop, sometimes
6 they run. And so she would run and then just stop,
7 spin halfway around and start pooping just straight
8 from the run. That's how I describe it as running
9 into it. I don't know if it helps with her stomach
10 or -- it just was how she behaved.

11 Q. Did Tesla also quote/unquote "run into it"
12 when she needed to pee?

13 A. No. She would squat to pee. So no.

14 Q. Yeah. So I understand "running into it"
15 to be the behavior immediately preceding her pooping.

16 So would she also run and then immediately
17 stop and then pee?

18 MR. SHIELDS: Objection.

19 A. For example, if I was to be opening the
20 door because it had been raining all day, in the time
21 to get her out to go use the bathroom, she would walk
22 out there, find a good spot and just pee.

23 Situationally, if there was a squirrel in
24 the yard, that would be more important than taking the
25 pee.



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2 Which was -- another thing she loved to do
3 for exercise is clear the yard of squirrels and birds
4 which love the backyard because of the nuts and the
5 cherries and the flowers.

6 Q. Sorry. I forgot what you said.

7 There was no specific place in the yard
8 she would use the bathroom?

9 A. I mean she wouldn't poop on the porch.
10 She would use the grass.

11 Q. Yeah. I just didn't know if she would go
12 for the tree or the fire pit or the barbecue or
13 anything, the fence.

14 A. Poop kind of just happens where it
15 happens. But like I said, when she would poop, she
16 would often go farther back into the yard as opposed
17 to pooping right next to the house.

18 Q. Where did Tesla sleep inside the house?

19 A. Bed.

20 Q. Whose bed?

21 A. She would sleep in LD's bed. She would
22 sleep in my bed. She would -- I mean she is a dog.
23 She would sleep during the day. She would sleep on
24 the couch. On the floor. Especially the summertime.

25 But in the evening time, she would sleep



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2 in bed with LD, Ashley or myself.

3 Q. Did you -- have you ever referred to Tesla
4 as your "best friend"?

5 A. Yeah.

6 Q. Why did you consider Tesla your best
7 friend?

8 MR. SHIELDS: Objection.

9 A. During the time that I had Tesla, I worked
10 a part-time job and I would come home and she would be
11 there. My girlfriend and my daughter would go to
12 school and work. You know. But they would -- I would
13 be alone. I would be with Tesla.

14 And, you know, my heart, my eye contact,
15 my energy would be reciprocated by her daily and --
16 like when I wanted a hug, that was always there for
17 me.

18 And like I said, we played fetch a lot.
19 I -- I played -- I spent a lot of time with her and a
20 lot of eye contact. And...

21 MR. SHIELDS: Probably a good time for a
22 break. I need to use the bathroom after he is done
23 with his answer.

24 A. I considered her my best friend because
25 maybe I didn't have anybody outside of my family that



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2 was in my life that would sit close to being more of a
3 friend of mine than she was.

4 MR. SHIELDS: I really do need to pee.

5 A. Can we pause to use the bathroom?

6 Q. Yes. Give me one second.

7 MR. SHIELDS: He is not in the middle of a
8 question, so we're taking a break. We are off the
9 record. I'm going to pause my timer.

10 MS. JONES: Okay. We're still on the
11 record.

12 MR. SHIELDS: No, we're not. We're going
13 off the record. It's not in the middle of a question.
14 I need to pee. We're going to take a break.

15 MS. JONES: Elliott, sit down. I'm in the
16 middle of a line of questioning.

17 MR. SHIELDS: You're not in the middle of
18 a question.

19 He is allowed to take a break at any time
20 other than in the middle of a question. So we're
21 taking a break.

22 Q. How often did you cuddle with Tesla?

23 MR. SHIELDS: Stop it. I'm walking out of
24 the room. We're going off the record.

25 A. Every single day.



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2 THE WITNESS: I would like to use the
3 bathroom.

4 MS. JONES: You need to use the bathroom?

5 THE WITNESS: Yes.

6 MS. JONES: Okay. Can you come back in
7 five minutes?

8 THE WITNESS: Less.

9 MS. JONES: Okay.

10 (The proceedings recessed at 10:45 a.m.)

11 (The proceedings reconvened at 10:52 a.m.;
12 appearances as before noted.)

13 CHARLES R. DEMPSEY III, resumes;

14 CONTINUING EXAMINATION BY MS. JONES:

15 Q. Did Tesla go with your daughter when she
16 spent time at her -- at her mother's? Meaning did
17 Tesla go with your daughter when your daughter spent
18 time at your daughter's mother's house?

19 A. No.

20 Q. Why not?

21 MR. SHIELDS: Objection.

22 A. LD's mother had cats and just -- we -- we
23 never really established like a -- never created a
24 routine for that.

25 Q. Who named Tesla?



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2 A. It was a -- like a family. Tesla was my
3 inspiration from Nikola Tesla, a scientist that has a
4 statue in Niagara Falls that I remember as a child.
5 So that was the inspiration for the name.

6 Q. Did you have -- oh, yes. You did.

7 So who cared for KitKat, the cat?

8 A. The family. The household. Cats are
9 easier than dogs. They kind of clean themselves, poop
10 in a box. If you ask where she used the bathroom, it
11 was in a box.

12 Q. Who bathed Tesla?

13 A. I have bathed Tesla. Ashley more
14 frequently would be the bather.

15 Q. Why is that?

16 A. I think she enjoyed it.

17 Q. Ashley enjoyed giving Tesla the baths?

18 A. She would sing a "Rub a Dub Dub, Fun in
19 the Tub."

20 Q. Did Tesla like getting a bath?

21 A. Tesla loved water.

22 Q. Did Tesla ever bark or growl at you?

23 A. Dogs don't speak in any mannerism other
24 than barking verbally. I mean that's what dogs do.

25 Q. So Tesla --



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2 A. So yes.

3 Q. -- did sometimes bark at you?

4 MR. SHIELDS: Objection.

5 A. Yes.

6 Q. Did Tesla ever growl at you?

7 A. By "growl," are you inferring in a
8 threatening manner or just to make a growling noise?
9 Because the answer is yes.

10 Q. To both the threatening version and just
11 to make a noise?

12 A. When we would play tug with a rope, she
13 would get into a growl with that. But to threaten me,
14 no.

15 Q. Did Tesla ever growl at you if you weren't
16 giving her attention?

17 A. No.

18 Q. Would she bark at you if you weren't
19 giving her attention?

20 A. If I was ignoring her trying to hand me a
21 toy long enough, she would bark to gain the attention.

22 Q. Did Tesla ever bark when she wanted to go
23 to the bathroom?

24 A. No.

25 Q. Did Tesla ever bark if she was "running



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2 into it," as you said? Running into the -- stopping
3 and pooping.

4 A. No. She did not bark in preparation for
5 pooping.

6 Q. Did she growl in preparation for pooping?

7 A. No.

8 Q. Did Tesla have a bed inside the house
9 other than the people's beds and the couch?

10 A. We had a -- a mat or like a padded dog
11 bed, I guess, that was a -- that was the purpose of
12 the purchase, but it wasn't -- she only laid on it to
13 look at us.

14 Q. Okay. Let's go to the day of the
15 incident.

16 What were you wearing that day?

17 A. Glasses, socks, underpants, pants, belt,
18 shirt and jacket.

19 Q. Did you have on a watch?

20 A. No.

21 Q. Did you have your phone on you?

22 A. Yes.

23 Q. Did you have your phone on you when you
24 were outside interacting with the officers?

25 A. Yes.



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2 Q. Did you have a brace on your hand on the
3 day of the incident?

4 A. A brace, like a medical brace? Is that
5 what you mean?

6 Q. Yes.

7 A. No.

8 Q. What had you been doing earlier that day?

9 MR. SHIELDS: Objection.

10 A. Are you referring to like that morning?
11 Did I shampoo and wash my hair? Or are you referring
12 to like in the moments before?

13 Q. In the few hours before the incident.

14 A. It was -- my daughter's birthday was that
15 weekend and I was preparing to take her out and she
16 wanted to go to this haunted house that was -- it was
17 Halloween time in October. It is kind of the thing to
18 do. And I was, you know, just doing my household
19 routine sort of during the day. And I keep just
20 drawing on. I will just tell you.

21 I remember after LD had come home, I
22 was -- I had just started to prepare food before I had
23 gone outside and the officer shot my dog. And you're
24 asking more about what I was doing before then. And
25 I -- I just keep going back to that, to the stove.



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2 Just a routine day.

3 Q. So what were you doing immediately
4 before -- so how did Tesla get outside?

5 A. From the back door?

6 Q. Yes.

7 How did the back door open? Who opened
8 the back door?

9 A. I opened the back door.

10 Q. Why did you open the back door?

11 A. To exit.

12 Q. Were you -- are you saying that you were
13 leaving the back door?

14 A. Yes.

15 Q. Why were you going outside?

16 A. Because I was intending on having a
17 cigarette.

18 Q. Did you know that Tesla was around you?

19 A. Yes.

20 Q. Was Tesla in front or behind you? Or I
21 guess alongside you?

22 MR. SHIELDS: Objection.

23 Q. So I guess where in -- where was Tesla in
24 relation to you?

25 MR. SHIELDS: Objection.



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2 A. At what point?

3 Q. When you first opened the door.

4 A. In order for me to open the door, I would
5 have been in front of her. And then when I opened the
6 screen door -- which was her habit of then clearing
7 the yard of squirrels and birds -- she had passed me
8 at that point.

9 Q. Was it your understanding that Tesla was
10 going outside to clear the yard of birds and
11 squirrels?

12 A. That's correct. Until --

13 Q. Did you see anyone in the backyard when
14 you opened the -- I will take a step back.

15 Did you see anyone in the backyard before
16 you opened the screen door?

17 A. No.

18 Q. Had the main door to the house, the
19 non-screen door -- had it been shut before you opened
20 the screen door?

21 A. To exit?

22 Q. Yes.

23 A. Yes. I had to open it before I had...

24 Q. You had to open both doors to get outside?

25 A. That's correct.



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2 Q. When did you first see the officer in your
3 backyard?

4 A. After I myself had stepped down from the
5 house level to the porch level.

6 Q. Where was Tesla when you first saw the
7 officer?

8 A. The bottom of the stairs, around the
9 corner of the porch. At which point I tried to tell
10 the officer that it was fine. And that she would be
11 okay.

12 Q. So what did you do or say after you saw
13 the officer?

14 A. I shouted that she -- "She's fine. It
15 will be okay."

16 Q. You said all of those words?

17 A. Yeah. I don't recall the precise word
18 that I said, but I do recall saying "She's fine"
19 because that's what I would say to everyone and I
20 followed it up with a statement like "It's okay."

21 That officer was too quick to just grab
22 his gun and fire it. I didn't -- there wasn't any
23 time for any communication. I'm sorry for raising my
24 tone.

25 Q. Where did Tesla go after you opened the



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2 door? Well, she went down the stairs.

3 Where did she go -- after Tesla went down
4 the stairs?

5 MR. SHIELDS: Objection.

6 A. Into the yard.

7 Q. Did Tesla head towards any specific part
8 of the yard?

9 A. Towards the center of the yard.

10 Q. From your perspective, did Tesla run
11 towards the officer?

12 A. When you exit the porch down the stairs,
13 there's a wall, which is my neighbor's house and you
14 only have the option of going into the center of the
15 yard or back where you came. So the officer, being in
16 the center of the yard, was in the direction that she
17 went.

18 Q. When you say "center of the yard," are you
19 meaning center east to west as opposed to north/south?

20 A. Yes.

21 Q. Were you normally outside when Tesla would
22 chase squirrels and birds?

23 MR. SHIELDS: Objection.

24 A. Are you asking if I was normally outside
25 when I let Tesla outside? That was her routine. I



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2 would be outside with her if I was outside to play
3 fetch or to have a cigarette. Then yes. Was I
4 outside every time she went outside? No.

5 Q. Have you been outside on multiple
6 occasions with Tesla when she is clearing the yard of
7 squirrels and birds?

8 A. Yes.

9 Q. Can you describe her behavior when she
10 clears the yards of squirrels and birds, just
11 generally speaking?

12 MR. SHIELDS: Objection.

13 A. She sort of runs in the direction of the
14 squirrel, which was usually in the direction of the
15 tree, and then do a half circle around the tree and
16 realize that she had once again been duped by
17 squirrels.

18 Q. So when you were describing your backyard
19 earlier, you named a lot of trees.

20 So -- any particular tree that she would
21 run in the direction of?

22 A. The one in my memory reference -- I'm
23 referring to is the chestnut tree, which is the
24 largest in the yard.

25 Q. I thought you said the chestnut tree was



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2 along one of the fences.

3 A. It was along the fence. I mean it is.

4 Fence was built after the tree.

5 Q. Do you know if that chestnut tree is
6 depicted in the body-worn camera video?

7 A. I'm sure at some point.

8 Q. Was the chestnut tree the one that had ivy
9 on it?

10 A. No.

11 Q. Was the chestnut tree close to your house?

12 A. Could you rephrase that?

13 Q. Is this the chestnut tree (indicating)?

14 A. No. That is a cherry tree. Also useful
15 for the squirrels for escape.

16 Q. Is that the chestnut tree?

17 A. On the left side of that video, that is
18 correct. It's an old one.

19 Q. Okay. So for the record, I pulled up the
20 body-worn camera video Officer Algarin marked COR 053
21 and I had paused it at 3 minutes and 43 seconds into
22 the video.

23 And -- do you want to describe in this
24 screenshot where the chestnut tree is?

25 A. Describe it -- where it is in the video



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2 screen?

3 Q. In screen.

4 A. The left.

5 Q. Okay. On the left-hand side you see the
6 tree and that's the chestnut tree?

7 A. Yes.

8 Q. Okay.

9 A. I'm not an arborist, but I think those are
10 chestnuts.

11 Q. Did you see the officer shoot Tesla?

12 A. Yes.

13 Q. What did you do after the officer shot
14 Tesla?

15 MR. SHIELDS: Objection.

16 A. I tried to put the -- myself in between
17 his gun and my dog. I tried to -- I tried to figure
18 out what was going on. I tried to like diffuse the
19 situation. I didn't know what I did was -- I left my
20 porch and proceeded across my yard.

21 Q. Were you still on your porch when the
22 officer shot the dog?

23 A. I believe I had not exited the porch at
24 that point.

25 Q. Did Tesla -- from your perspective, did



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2 Tesla run off the porch any quicker than she normally
3 would?

4 A. No.

5 Q. Did you hear the officer say anything --

6 A. No.

7 Q. -- when you were at your back door or on
8 the porch?

9 A. No.

10 Q. Did you hear Tesla bark or growl when she
11 was running down the porch and into the yard?

12 A. Not until he shot her. She whimpered and
13 it's a noise that lives rent free in my head.

14 Q. So what did you do after leaving the --
15 what did you do after leaving the porch and trying
16 to -- I think you said -- I don't remember what you
17 said.

18 What did you do after you left the porch
19 into the yard?

20 MR. SHIELDS: Objection.

21 A. I -- I started to ask the officer
22 questions or -- you know, like -- I started to shout.
23 I -- I walked out into my yard and he was holding his
24 gun now at me with my back to the house. And I didn't
25 know why he was even there. And like at that point it



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2 had only been seconds and I hadn't even really like --
3 I didn't even know he was a cop at first. And, you
4 know -- I saw the uniform. I put it all together in
5 seconds, but like -- I was being held at gunpoint
6 after that point. After I had come off the porch and
7 come down, I was being held at gunpoint.

8 Q. And then what happened?

9 A. I stopped walking because the officer
10 showed the intent to fire. And -- another officer had
11 come from another yard, I would assume. I don't know
12 where that guy came from. He just sort of showed up.

13 I remember I told that guy to like -- I
14 said, "Get that guy. Get the officer. Stop him.
15 He's like shooting at" -- "at my family."

16 I think I said something along the lines
17 of "Get your boss" or something. "Call the Sarge."

18 He -- he -- he holstered his gun and
19 pulled out some other weapon that he pointed at me for
20 a period of time until that officer had told him to
21 stop. I didn't know what that was.

22 And then I remember when -- when I finally
23 had felt like that guy was no longer pointing a weapon
24 at me, that I -- that I need to go and like figure out
25 what had happened with -- like -- I needed to go and



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2 help my dog.

3 Q. So you mentioned two officers.

4 There's -- do you know either of their
5 names?

6 A. I'm aware that Officer Algarin's body
7 camera footage is -- he is the officer who -- I'm
8 aware of his name.

9 Q. Okay. So is Officer Algarin the one that
10 held you at gunpoint, you said?

11 A. Yes.

12 Q. Is he the one that also pulled out the
13 different weapon that you just mentioned?

14 A. That's correct.

15 Q. Are you -- or at the time of this
16 incident, were you familiar with guns?

17 MR. SHIELDS: Objection.

18 A. Could you rephrase that?

19 Q. Did you own a gun at the time of this
20 incident?

21 A. No.

22 Q. Have you ever shot a gun as of the time of
23 this incident?

24 A. No. I -- that's a very vague thing
25 because I played Call of Duty up to that point. I



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2 can't play Call of Duty anymore because gun violence
3 makes me shaky and I don't like it. But I have never
4 owned a gun, as far as a firearm goes.

5 Q. Yes. I was referring to real life.

6 A. I have -- I -- mean -- to answer your
7 question.

8 Q. Some people go to firing ranges or things
9 like that.

10 So have you ever been to a firing range or
11 shot a gun in any other type of context?

12 MR. SHIELDS: Objection.

13 A. My dad had taught me how to shoot a pistol
14 when I was coming of age.

15 Q. When was that?

16 A. I was a teenage boy. I don't recall the
17 age.

18 Q. Did you shoot that pistol with your dad on
19 multiple occasions?

20 A. No. Just one lesson.

21 Q. So prior to this -- the day of this
22 incident, had you held a gun since your dad taught you
23 how to shoot a pistol?

24 A. I never owned a gun.

25 Q. Is that "no"?



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2 A. I -- nobody gave me a gun to hold.

3 Q. Okay.

4 A. So like I said, I would say no.

5 Q. Did you ever consider buying a firearm
6 prior to the day of this incident?

7 A. No.

8 Q. The other type of weapon that you
9 mentioned Officer Algarin having, can you describe it
10 at all?

11 A. Black. He pulled it from his belt, so it
12 was police-issued. And he pointed it at me and it --
13 with -- with -- I believe he was only using one arm.
14 I -- I can't recall if he had to use both hands.

15 Q. When you reviewed the body-worn camera of
16 Officer Algarin in preparation for this deposition,
17 did you watch the entire video?

18 A. No.

19 Q. What portions did you watch?

20 MR. SHIELDS: Objection.

21 A. Beginning.

22 Q. Would you describe what was depicted in
23 the portion of the video that you reviewed in
24 preparation for the deposition today?

25 A. The officer jumping the fence, walking



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2 around my backyard, jumping out of my yard, jumping
3 back into my yard and then opening fire on Tesla. And
4 we had -- we hadn't reviewed beyond that point.

5 Q. So to be clear, you didn't review when the
6 officer pointed the guns or weapons at you?

7 MR. SHIELDS: Objection.

8 A. That's correct.

9 Q. Did an officer point a weapon or firearm
10 at you at any other time during this entire incident
11 with Tesla?

12 MR. SHIELDS: Objection.

13 A. It's -- it's a long time. I don't know
14 how long I was -- I was in the dirt. But I had felt
15 that they were holding me there. And at one point I
16 had asked -- I looked up and watched a cop with his
17 hand on his gun and asked him, "Why" -- "Why are you
18 doing that and not helping me?"

19 Q. Did you say anything else besides "Why are
20 you doing that?"

21 A. I don't --

22 MR. SHIELDS: Objection.

23 A. -- think those are the words I used.

24 Q. Sure.

25 I guess I'm wondering did you indicate in



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2 some sort of way "Why are you pointing your gun at
3 me?" or "Why are you holding your gun?" or something
4 like that?

5 MR. SHIELDS: Objection.

6 A. I remember I was scared to move because I
7 was surrounded by officers and I felt like if I had
8 released my dog, another dog -- I thought -- I could
9 still save Tesla. I was afraid that -- I mean they --
10 they surrounded me and just -- they wouldn't -- they
11 didn't help. They -- they cleaned up -- they went and
12 picked -- sorry. I'm straying from your question.

13 I don't recall the -- what words that I
14 said at the time.

15 Q. Do you remember specifically any officer
16 pointing a weapon at you other than Officer Algarin
17 and what you just mentioned?

18 MR. SHIELDS: Objection.

19 A. During that incident?

20 Q. Yes. The whole time that the officers
21 were at your property that day.

22 MR. SHIELDS: Objection.

23 A. Again, I felt like they were -- I don't
24 recall an unholstered weapon in my line of sight, but
25 I do recall weapons that were in -- with hands on.



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2 Q. You said that you felt like they were
3 holding you there.

4 Can you explain what the officers did that
5 make you feel like they were holding you there?

6 A. They surrounded me with their hands on
7 their guns and told me not to go. And like -- just
8 started using my yard so that they could collect their
9 shells. Like -- just started going in and out of my
10 yard. To just like clean up. When somebody fires a
11 gun and police show up to the scene, they take
12 pictures of the shells on the ground before they pick
13 them up. These guys just pushed through and cleaned
14 up their scene and wiped their hands clean of it while
15 I was laying in the dirt, bleeding out, asking for
16 help.

17 Q. I'm sorry.

18 Are you saying that officers didn't take
19 pictures of the shells this time?

20 A. I -- I'm aware of that. At that point in
21 time I'm lying down in the dirt.

22 Q. So I feel like you're making some sort of
23 a complaint or expressing displeasure and I'm not sure
24 what about the situation you're displeased with.

25 MR. SHIELDS: Objection.



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2 A. Could you re-ask your previous question
3 that led me to say that?

4 Q. I don't remember what it was.

5 MR. SHIELDS: Objection. It's not a
6 question.

7 A. I don't remember what you were asking me.

8 Q. You said -- or yesterday your daughter
9 testified that she thought officers were pointing
10 their gun at you while she was looking at you out of
11 the living room window.

12 Did any officers point their guns at you
13 while you would have been viewable by her through the
14 living room window?

15 A. From the living room window she would have
16 had an overhead perspective of the multiple officers
17 that were standing around me.

18 Q. From --

19 A. And you're asking did they have guns out
20 in my direction at that point in time?

21 Q. Yes.

22 Do you remember any officers pointing
23 their weapons at you?

24 A. At that point in time, no.

25 Q. When you say you were "surrounded," can



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2 you describe that a little more?

3 MR. SHIELDS: Objection.

4 A. At the point that I got to Tesla, that was
5 in between mine and my neighbor's houses. So the only
6 way to go would be north/south as far as traveling.
7 And to the north of me was my fence, which the
8 officers had blockaded.

9 And to the south of me was not only the
10 officer who had just opened fire on my dog, but other
11 officers. And they stood over me and offered me no
12 assistance. And traveled freely past me.

13 Q. What do you mean by blockaded me?

14 A. I mean that I could only travel north and
15 south and they stood to my north and to my south.

16 Q. Did you ask them to move so you could
17 leave?

18 A. I was screaming for help. How was
19 standing over somebody with your hand on your weapon
20 helping somebody? It's not.

21 Q. What type of help were you looking for
22 from the officers?

23 MR. SHIELDS: Objection.

24 A. Officers are trained -- if -- for -- for
25 medical response for each other. So their vehicles



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2 have to have some sort of emergency kit in them.
3 That's my assumption. Those officers could have gone
4 to one of their many vehicles on the scene and
5 provided me with some sort of bandage or something
6 that I could help tie off the open wounds. That's
7 what I was -- that's -- in reflection that's what I
8 was hoping they would provide me with.

9 Q. Do you remember asking specifically for
10 that?

11 A. Yeah.

12 Q. What did they say in response?

13 A. Sometime later I was given a used towel
14 from Animal Control.

15 Q. Do you remember any of the officers
16 verbally responding to your request?

17 A. I remember an officer saying "Animal
18 Control is on their way."

19 Q. Do you remember anything else -- or what
20 else did the officers say to you when you were in the
21 location to the side of the living room window?

22 MR. SHIELDS: Objection.

23 A. There were many officers. There was a lot
24 said. I don't recall words.

25 Q. When you were -- when Officer Algarin



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2 pointed the firearm or weapons at you in the yard like
3 you said before, did you feel like you couldn't leave?

4 A. When he flexed with his pistol pointed at
5 me, I felt like he was ready to shoot me. For a while
6 I had like nightmares of taking a bullet to my --
7 right here (indicating) above my heart. It's -- yes.
8 I felt like I was not allowed to operate freely in
9 life at that point.

10 Q. What else were you feeling at the moment?

11 A. What other feelings was I experiencing?
12 At the moment after -- just after he had shot my dog
13 and -- I was very concerned about my daughter. I was
14 worried about the dog. I was -- I was still confused
15 as to why he was even in the yard. I was genuinely,
16 you know, scared that he was willing to shoot me. I
17 mean -- scared.

18 Q. Okay. I'm going to -- I will pull up the
19 video and we're going to walk through it and I'm going
20 to ask you a few questions.

21 MR. SHIELDS: Want a cigarette before
22 that?

23 THE WITNESS: No. It's fine.

24 (There was a discussion off the record.)

25 Q. Okay. So I have Officer Algarin's



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2 body-worn camera up. Can you see that? Is there
3 glare?

4 A. That's better.

5 Q. Okay. So I have Officer Algarin's
6 body-worn camera up. The same one that we were
7 looking at earlier, COR 53.

8 Right now it's 2 minutes and 14 seconds
9 into the video. I'm going to -- actually -- yep. Is
10 it -- yes, it is 2 seconds -- 2 minutes and 14
11 seconds.

12 So I will push play and then I will
13 probably push pause and ask you questions about what
14 you saw and heard and did and we'll go from there.

15 It's at 50 right now -- the volume -- but
16 tell me if it needs to be louder.

17 MR. SHIELDS: For the record, I think the
18 time stamp is 17 hours, 9 minutes and 32 seconds.

19 MS. JONES: Great.

20 (The video was played.)

21 Q. Okay. Maybe that should be louder.

22 A. I can hear it fine.

23 Q. Oh, okay.

24 Because I have trouble hearing you in this
25 video.



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2 And earlier you said that you said
3 something?

4 A. I did.

5 Q. Okay. I was hoping that you could at
6 least, I guess, point it out to me.

7 Did you hear yourself in that few-second
8 clip? Let me see how many seconds it was. That
9 4-second clip?

10 A. You can play it again and --

11 MR. SHIELDS: Objection.

12 Q. Did you hear yourself in that 4-second
13 clip?

14 MR. SHIELDS: Objection.

15 A. Yes.

16 Q. Oh, you did.

17 Then I will go back and -- we're back at
18 2:14 and I'm going to push play again.

19 (The video was played.)

20 A. So in between his "Whoa"s is a moment that
21 you can hear my voice.

22 Q. Okay.

23 A. And I heard that.

24 Q. Because you can hear your voice.

25 A. In between these "Whoa"s.



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2 Can I understand what I'm saying on this
3 video? Is that what you're going to ask me?

4 Q. Yes.

5 A. No.

6 Q. And the "his" that you're referring to
7 with the "Whoa"s, are you talking about the officer's
8 "Whoa"s?

9 A. Yes.

10 Q. Do you hear anything else in that video?
11 Excuse me.

12 Did you hear anything else in that 4- or
13 5-second clip?

14 A. Cry my dog made I told you -- that I
15 talked about earlier.

16 Q. Did you hear your dog barking or growling
17 in that clip?

18 A. I don't recall.

19 Q. I will play it one more time and then I'm
20 going to ask you if you hear your dog saying -- not
21 saying -- barking or growling. All right.

22 We're back to 2:13 in the video. 17:09:31
23 is the time stamp on the -- well, actually let me play
24 it fast.

25 Okay. So -- so we're at 2 minutes and 14



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2 seconds. The time stamp on the video is 17:09:32.

3 All right. Here we go. We'll listen for
4 the dog.

5 (The video was played.)

6 Q. So did you hear the dog bark or growl in
7 that 5-second clip?

8 A. Yes.

9 Q. Why -- why was Tesla barking or growling?

10 MR. SHIELDS: Objection.

11 A. Probably because she didn't speak English.

12 Would that have been a preferable way to
13 approach an officer, for a dog to speak English?

14 Q. So I thought that you understood Tesla to
15 just be going out into the yard to look for birds and
16 squirrels?

17 MR. SHIELDS: Objection.

18 A. What do you mean by that? That was where
19 we lived.

20 Q. Did -- did you think that Tesla was
21 running towards the officer?

22 MR. SHIELDS: Objection.

23 A. At this point in the video?

24 Q. Well, no. During the 5-second clip that I
25 just played.



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2 A. Did I think that she was approaching the
3 officer?

4 Q. Yes.

5 Did you think --

6 A. Yes. Yes. That would make a lot of sense
7 to approach a stranger in the yard.

8 Q. Did you -- do you -- do you interpret
9 Tesla's action as being aggressive?

10 MR. SHIELDS: Objection.

11 A. No. Inquisitive.

12 Q. So you would characterize Tesla's barking
13 as inquisitive?

14 MR. SHIELDS: Objection.

15 A. Sounded like a "Who are you to me?"

16 She was a big dog. If she wanted to make
17 intimidating noises, she would have made them in an
18 intimidating, louder manner.

19 Q. Did you hear Tesla growl in that 5-second
20 clip?

21 A. She -- "ur-ur-ur-ur." Yes. She made the
22 same noise as the squirrels. She was "ur-ur-ur-ur."
23 I mean I don't speak dog, but there is bark, there is
24 "ur-ur-ur-ur." There is "roar roar roar roar." You
25 know.



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2 Q. So I'm going to keep playing and then I
3 will pause it when I have some questions for you.

4 So we're at 2:19.

5 Can you still see this okay?

6 A. Yeah.

7 Q. Okay. Great. I will push play.

8 (The video was played.)

9 Q. So I want you to identify when the officer
10 points his gun at you.

11 MR. SHIELDS: Objection.

12 Q. I will try to pause it as quickly
13 thereafter after you say it.

14 A. Where is he pointing his gun now at this
15 point in the video?

16 Q. Oh, I'm sorry. You don't get to ask me
17 questions.

18 But -- so I'm going to push play and you
19 can tell me where the officer points the gun at you.

20 (The video was played.)

21 A. There.

22 Q. Okay. So just there?

23 A. Um, he's already still -- I mean he is
24 actively pointing his gun at me now.

25 Q. He is?



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2 A. Yes.

3 (The video was played.)

4 Q. Where?

5 A. His body camera is on his chest. His gun
6 is held up in his line of sight.

7 Q. Okay. So you're saying that even though
8 we don't see the gun on the body-worn camera, the gun
9 was up?

10 A. Yeah.

11 Q. Okay. So I'm going to go back to 2:17 in
12 the video and I'm going to play it a little slower.
13 We're going to go to half-time. And that really
14 messes up the sound. I will actually take the sound
15 off. Sound off. Okay.

16 So I'm going to play this again. We're at
17 2:17. And I'll try to be a little faster and pause it
18 where he's pointing the gun at you.

19 (The video was played.)

20 Q. Can you tell me when he is pointing the
21 gun at you?

22 A. Right there. He is lifting his gun and
23 aiming it at me.

24 Q. So I thought you were farther over.

25 Are you already over?



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2 MR. SHIELDS: Objection.

3 A. At this point -- at this point I'm already
4 underneath his arm. My entire person is underneath
5 his right arm.

6 Q. Okay. And you felt like the gun was being
7 pointed at you right now?

8 MR. SHIELDS: Objection.

9 A. Yes. He had raised the gun from pointing
10 downwards towards my dog at that point towards me.

11 Q. Okay.

12 A. Who had just came down from the porch, the
13 same way the dog had just come that he had just shot.

14 Q. So we're 2 minutes and 22 seconds into the
15 video and then what happens?

16 (The video was played.)

17 Q. When does he pull out the other weapon?
18 Did I miss that already?

19 MR. SHIELDS: Objection.

20 A. Again, I can only see the chest in this
21 video. I don't see the outside of the body.

22 Q. Oh. So where was --

23 A. The frame of his body.

24 Q. Where was the other weapon that he pulled
25 at you?



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2 A. From his -- from his belt.

3 Q. He -- so he pulled the second weapon from
4 his belt?

5 MR. SHIELDS: Objection.

6 A. Yes. Yes. That is where I thought he got
7 it from.

8 Q. Did he point it at you, the second weapon?

9 A. Yes.

10 Q. I guess I -- I just don't see it in the
11 video. So I will go back to 2:15 -- no. We'll go to
12 2:20. If you can just tell me where he pulls out the
13 second weapon, that would be helpful. So we have the
14 first one. I'm just looking for the second.

15 I will push play and I will push pause
16 whenever you tell me to push pause.

17 (The video was played.)

18 A. He -- he already has it at this point.

19 Q. So in -- in which hand is it?

20 MR. SHIELDS: Objection.

21 A. It's not on the screen.

22 Q. It's not on the screen.

23 So is it in his right hand?

24 MR. SHIELDS: Objection.

25 A. He had -- it makes sense it would be in



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2 his right hand --

3 Q. So --

4 A. -- but I'm not seeing it on your screen.

5 Q. Sure.

6 So I paused the video at 2 minutes and 29
7 seconds.

8 So in this frame, can you describe what
9 you see in this frame?

10 A. In terms of -- I see a fence. I see
11 rocks. I see myself. I see the officer's thumb.

12 Q. So that thumb that you're --

13 A. Is that what -- that's what I'm assuming
14 it is -- his hand?

15 Q. So that would be his left hand? Is that
16 right?

17 A. Yeah.

18 Q. So is there a weapon in the left hand?

19 A. I see his thumb.

20 Q. So is that a "yes" or a "no"?

21 MR. SHIELDS: Objection.

22 A. I don't see the weapon in that frame, no.

23 Q. So you're saying that the weapon then
24 would have been in his right hand that we can't see
25 right now?



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2 A. Yeah.

3 Q. Okay. Do you know when in this
4 interaction with Officer Algarin he pulled out the
5 second weapon?

6 A. After he holstered his pistol, he -- in
7 the same motion -- pulled out the other weapon.

8 Q. What did the other weapon look like?

9 A. And it was black. It was small. It -- it
10 was like -- it wasn't much larger than his hand.

11 Q. Do you know what a taser looks like?

12 A. The -- like yellow taser guns that RPD
13 uses? Is that -- or -- there are many tasers.

14 Q. Did the weapon that Officer Algarin pulled
15 out -- was that a taser?

16 A. I don't know.

17 Q. I'm sorry.

18 Did you answer?

19 A. I said, "I don't know."

20 Q. Okay. Okay. So I'm going to play this
21 again. We're going to go back to about 2:19. I want
22 to talk about the audio now. So I'm going to play the
23 sound and I'm also going to play it at regular speed.
24 Because slow speed is just hard to understand.

25 Okay. So I'm going to play about 5 or 7



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2 seconds and then I'm going to ask you what you say and
3 do and then -- we'll probably play it again and we can
4 talk about what the officer is saying and doing unless
5 you can get all of that information from playing it
6 once. We'll talk about what you're doing and saying
7 first.

8 MR. SHIELDS: Objection.

9 Q. So I'm pushing play from 2 minutes and 20
10 seconds into the video.

11 Can you still see that okay?

12 A. The screen, yes.

13 Q. Okay. Here we go.

14 (The video was played.)

15 Q. Okay. So I paused it at 2:27 and 7
16 seconds.

17 Can you describe to me what you were doing
18 in those 7 seconds?

19 A. I was walking to that point of the yard --

20 Q. Okay.

21 A. -- physically.

22 I pointed with my arm in the direction
23 of -- I pointed with my right arm. And I was speaking
24 towards the officer.

25 Q. What were you saying?



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2 A. My comments were inaudible. Perhaps with
3 more...

4 Q. Okay. Did you hear or do you know what
5 the officer was saying and doing based on that clip?
6 Or do you need me to play the 7 seconds again?

7 A. That was when he was retreating and he
8 switched from one -- that was -- he was walking
9 backwards on his feet. He said -- I heard "Get back."

10 Q. And what else, if anything, was he doing
11 in those 7 seconds?

12 A. I can only see the camera from his chest.
13 All I can tell is he was heading in a -- he wasn't
14 standing still.

15 Q. Sure.

16 I'm going to play those seconds one more
17 time and if you want to pick out any other details of
18 what you did or the officer did, let's do that. I
19 will even turn the sound up a little more to see if
20 you can hear what you're saying.

21 MR. SHIELDS: Objection.

22 Q. And we'll start at 2 -- 2:19. Okay. I'm
23 pushing play.

24 (The video was played.)

25 Q. Okay. Were you able to hear what you were



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2 saying at that time around?

3 A. Sounded like I cried the word "No." And
4 that -- I mean pieced together with my memory, I
5 recall telling him to get off my property.

6 Q. Okay. And how many times did the officer
7 say "Get back"?

8 MR. SHIELDS: Objection.

9 A. During that period of time there?

10 Q. Yes.

11 A. Sounded like he repeated himself.

12 Q. Okay. I'm going to play it a little
13 longer now. And we'll do the same questions. What
14 you were doing and saying and then what the officer is
15 doing and saying. So I'm going to start at 2:25. It
16 overlaps a little bit with what we watched before and
17 then goes for another 7 to 10 seconds. All right. So
18 this should be at 2:25. And I'm going to push play.

19 (The video was played.)

20 Q. Okay. So I stopped that at 2 minutes and
21 40 seconds. A little longer than 10.

22 Can you tell me what you were doing in
23 that 15-ish-second clip?

24 A. Trying to understand what just happened.
25 And again, I was confused as to if that guy -- who he



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2 was and why he was there. And why did he do that? I

3 asked multiple times just in that period of time

4 "Why?" "Why?"

5 Q. Do you say "Why?" in that clip?

6 MR. SHIELDS: Objection.

7 A. "What is the matter with you? Why would
8 you do that?"

9 Q. And are you walking towards or away from
10 the officers in those 15 seconds?

11 MR. SHIELDS: Objection.

12 A. During that time we were walking in the
13 same direction it appears.

14 Q. Which direction is that? Which direction
15 is that?

16 A. I was walking out into the yard. So I did
17 get closer to the officer. Towards.

18 Q. Okay. Do you have any comments on what
19 the officer was doing or saying in those 15 seconds?

20 A. At no point did he tell me he was an
21 officer or why he was there or why it was okay to
22 shoot my dog.

23 Q. What did the officer say?

24 A. He threatened me.

25 Q. What did he say that was threatening to



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2 you?

3 A. He pointed his smoking pistol at me and
4 told me to get back.

5 Q. So which part of -- so -- that was two
6 things.

7 So we talked earlier about him pointing
8 the firearm at you. What did he -- scratch that.

9 We talked about the pointing of the
10 firearm.

11 But you're also saying he said "Get back"
12 at you?

13 A. Did we not get that from the second time
14 we reviewed the video and you asked me what the
15 officer was saying?

16 Q. Your phrasing that in the form of a
17 question. But I think that was rhetorical.

18 Are you saying that you understood or
19 heard the officer to say "Get back" at you from this
20 clip?

21 MR. SHIELDS: Objection.

22 A. Yes.

23 Q. Great.

24 Am I understanding you correctly that you
25 interpret the term "get back" to be threatening?



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2 A. With a hot gun barrel in -- yes. That --
3 that man was shooting his gun. He's a threat to
4 everything in his line of sight.

5 Q. So earlier you said that he had out his
6 firearm and then he holstered it and then pulled out a
7 different weapon?

8 A. Yes.

9 Q. So -- I don't want to put words in your
10 mouth.

11 So which parts of that were threatening
12 when in combination with the words "Get back"?

13 MR. SHIELDS: Objection.

14 A. He had said the words "Get back" before he
15 had holstered his weapon and swapped for the
16 alternative or -- again, I don't remember -- I don't
17 know what he had switched to. He put that in his hand
18 and pointed it in my direction just as he was before.

19 Q. So can you describe what about that you
20 found threatening?

21 A. After he freely like opened fire in my
22 yard, he then is now like intimidating me to do his
23 will. Without reason.

24 Q. So are you saying that the words "Get
25 back" alone were the intimidating part?



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2 A. No. It was a hot pistol barrel that
3 scared me.

4 Q. Sure. But at some point the firearm was
5 holstered.

6 So what actions subsequent to the
7 holstering of the gun did you find intimidating or
8 threatening?

9 A. At the end of the video which you were
10 just showing there my arm was pointing and my words
11 were directed towards another officer that I had
12 assumed would now help protect me from this man in my
13 yard.

14 Q. So you were intimidated or threatened by
15 the fact that the other officer didn't help you?

16 MR. SHIELDS: Objection.

17 A. I was intimidated by the fact that that
18 man, Officer Algarin, was comfortable with shooting a
19 firearm on my property for no purpose other than his
20 own will. Like -- at that point in time, like --
21 active shooter drills became like a thing in school
22 where kids are now getting -- when somebody is firing,
23 it's best -- to pardon the phrase -- but duck and
24 cover. You know, lock the door. Protect yourself.
25 Because like nothing is safe.



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2 Q. So would you have felt threatened or
3 intimidated no matter what Algarin did after shooting
4 your dog?

5 A. By that man in my yard who had just shot
6 my dog, yes. I was afraid he would be willing to do
7 anything.

8 Q. Why didn't you immediately retreat if you
9 felt threatened or intimidated?

10 A. Adrenaline. I was -- he didn't hear --
11 you know, he wasn't hearing my words.

12 Q. Why did you believe he wasn't hearing your
13 words?

14 A. Because I told him that she would be fine
15 and it would be okay. He proceeded to open fire and
16 then I told him to leave and he proceeded to stand his
17 ground.

18 Q. What do you mean by "stand his ground"?

19 MR. SHIELDS: Objection.

20 A. I mean that if you were to continue that
21 video, he would continue to be standing on my
22 property. Despite my request for him to leave.

23 Q. So by stand your ground, you meant he
24 stayed in your yard?

25 A. As if it was his own.



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2 Q. Let's see what we got. Great.

3 So I'm going to start it back at 2:25
4 again and I'll play it for a little longer. I was
5 hoping you could describe what's going through your
6 mind at this point. We have a few of those things on
7 record, but if there is anything else you want to add
8 about what you're thinking here, that would be
9 helpful. So 2:25 and I will turn the laptop and push
10 play.

11 (The video was played.)

12 Q. Can you describe what was going through
13 your mind during those 23 seconds? I stopped the
14 video at 2:58.

15 A. Another -- an officer had entered from the
16 rear of this footage. I was relieved that he was
17 there because I was less intimidated -- I was less
18 concerned about the threat of that man, Algarin. And
19 I was -- I was verbalizing how they didn't belong
20 there.

21 I -- you know, I'm still confused as to
22 why that happened. Hence why I asked him, "Why did
23 you do that?"

24 And my head at that point in time, that
25 was -- that was so -- so long ago at this point now



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2 that -- I can't -- I can't remember every thought that
3 crossed my mind. That was one of the worst things
4 I've ever been through in my life and those moments --
5 they say sometimes that time -- time flows differently
6 based on your energy of a situation and this -- I said
7 my adrenaline was high at that point in time.

8 Q. So you said they didn't --

9 A. And I tried to -- that was my best "grr"
10 voice. It is all squeaky and soft and that's probably
11 why they didn't listen to me because they didn't care.

12 Q. So you said they didn't belong there.

13 Were you expecting the second officer to
14 leave, as well?

15 A. When I asked him to get off my property in
16 the video? Is that what you're referring to? Did I
17 expect that both officers would leave -- would then
18 leave the property?

19 Q. Yes.

20 A. Yes.

21 Q. So earlier you said you were relieved at
22 seeing the second officer.

23 If you were relieved at seeing the second
24 officer, why did you want him off the property?

25 MR. SHIELDS: Objection.



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2 A. I wanted him to take the guy, Algarin -- I
3 wanted him to take him with him. I didn't know what
4 his purpose was. "His," being Algarin.

5 Q. Did the officers ever tell you to stay
6 put?

7 A. Algarin told me to "Get down."
8 Isn't that equivalent to stay put.

9 Q. He said to "Get down"?

10 A. I believe so.

11 "Get back," "Get down," "Get back." I
12 thought I heard that earlier, but I could be mistaken.
13 I'm very high on adrenaline at the moment. It's
14 upsetting.

15 Q. I thought it was just "Get back," but I
16 can -- so you interpret the words "Get down" as "Stay
17 put" -- do you interpret "Get back" as "Stay put," as
18 well?

19 MR. SHIELDS: Objection.

20 A. Yes. It's not an invitation.

21 Q. Why did you eventually decide to move
22 backwards away from the officers?

23 MR. SHIELDS: Objection.

24 A. Towards the end of that video?

25 Q. Correct.



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2 Why did you choose to move backwards
3 towards the end of that clip?

4 A. Because my fear of Algarin being a threat
5 had passed with the arrival of the second person and I
6 had to -- they -- they brought -- you can hear them
7 say "Go get your dog. Go get your dog" to me. And I
8 had to go get my dog.

9 Like I didn't know where she was at that
10 point. I didn't know what was happening.

11 Q. And why didn't you go get your dog sooner?

12 A. I was in fear of what Algarin was willing
13 and going to do. I didn't know why he was in my yard.
14 It's not unheard of for people who do bad things to do
15 more bad things. And that's my theory.

16 Q. Have you been in a situation where someone
17 that did something bad to you did more bad things to
18 you?

19 MR. SHIELDS: Objection.

20 A. It's a very vague question. Have I been
21 eliminated in dodgeball twice by the same guy? Had I
22 been bullied by the same person? You know, like --
23 are you referring to -- I don't understand the depth
24 of your question or the -- or incidence of it.

25 Q. Anything. So I'm wondering what is the



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2 basis of your life experience that causes you to
3 believe that people can do additional bad things to
4 you.

5 MR. SHIELDS: Objection.

6 A. Untrustworthy people are untrustworthy.
7 It's just something that you learn the hard way, I
8 guess, I would say.

9 Q. Do you have any specific examples of
10 untrustworthy people that have taught this hard
11 lesson?

12 MR. SHIELDS: Objection.

13 A. I had a neighbor I loaned some money for
14 and made the mistake of doing it twice and I never got
15 any of it back.

16 Is that an example of a repetitive act of
17 mistrust?

18 Q. How much did you loan to that neighbor?

19 A. I don't recall.

20 Q. When did you loan the money to the
21 neighbor?

22 MR. SHIELDS: Objection.

23 A. I don't recall.

24 Q. Any other examples of bad things happening
25 multiple times with the same person?



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2 MR. SHIELDS: Objection.

3 A. I remember when I was in high school and
4 there was the Columbine shooters and those kids just
5 kept killing until they killed themselves. That was
6 traumatic for me as a kid in school to think about
7 that.

8 Q. What did you do after this part in the
9 clip when you walked away to go find your dog?

10 A. After the point of which you had stopped
11 the video before, what was the next thing I did that
12 was upsetting?

13 Q. Yes.

14 A. I went to the dog. I think I -- I think I
15 tried to call for help. I didn't know who to call
16 for. I think it was just dial, dial. And then I got
17 to the dog.

18 And I saw she was -- I saw that there was
19 blood dripping and I tried to use my -- my clothes to
20 try to -- and -- I tried to shield her. I laid over
21 her. Because at that point, the other officers in the
22 area started responding to the shots fired and started
23 to...

24 Q. Did you say you dialed? You called people
25 on your phone?



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2 A. I -- I thought I called for help. I
3 thought I -- yeah.

4 Q. Who did you call?

5 A. My girlfriend.

6 Q. Did she pick up?

7 A. I don't know. I didn't speak. I -- I
8 think she did.

9 Q. Did you call anyone else for help?

10 A. No. Because I had been at that -- I
11 had -- I hung up on -- I had put my phone in my pocket
12 and I was using my body and both of my hands to
13 address wounds on Tesla that were inflicted by the
14 bullets.

15 Q. You said that you were shielding Tesla.

16 What do you mean by that?

17 A. I was genuinely concerned that the
18 officers would just finish the gig. I didn't know how
19 Tesla would react after having just been shot. And if
20 they thought that her just exiting the house was -- I
21 was -- I was laying in the dirt over her bleeding body
22 while the people who were responsible for the
23 situation at hand passed by freely in my yard as if it
24 had now become theirs. And I was shielding her from
25 what I posed as a threat of them inflicting their



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2 will.

3 Q. Earlier you, I think, said you asked the
4 officers for help at some point; is that correct?

5 A. That is.

6 Q. Do you remember who you spoke to while you
7 were shielding Tesla, as you said?

8 MR. SHIELDS: Objection.

9 A. Like directly? I --

10 Q. Uh-huh.

11 A. I remember just shouting at the air. I
12 remember at one point when I could -- no, I don't
13 remember the -- the name of a human that was around me
14 that I was speaking to.

15 Q. What did the officers say to you while you
16 were holding Tesla in that corner of the yard?

17 A. I remember them telling me that Animal
18 Control was coming. I -- I -- I asked that -- I asked
19 the cops to help with LD because I couldn't -- I
20 couldn't hold -- I couldn't stop her from bleeding and
21 I couldn't like tell LD...

22 MR. SHIELDS: Just for the record, my
23 client is crying.

24 A. Look, I asked -- I saw an officer whose
25 name I'm not aware of -- who I was facially familiar



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2 with -- in the back of my yard while I'm laying in the
3 dirt and the front part of my yard with the dog and I
4 could hear LD pounding. I could hear a pounding
5 coming from my house. I knew it had to be LD.

6 And I asked -- I asked -- I asked
7 somebody, "Can you please" -- "Can you please tell her
8 it would be okay?"

9 And I asked them for help. I couldn't be
10 there for them both.

11 Q. Just to clarify what you just said, you
12 asked one of the cops to go take care of your daughter
13 and tell her it would be okay.

14 Was there an additional type of help that
15 you asked for?

16 MR. SHIELDS: Objection.

17 A. I wanted -- I wanted first aid.

18 Q. Any other specific types of help that you
19 asked for?

20 A. Yeah. About an hour or so -- I don't know
21 how long that I was into it I had been aware that
22 Animal Control was not going to assist me and that I
23 would be responsible for getting this situation
24 cleaned up on my own and I had -- I was -- I now had
25 to figure out how to get my dog to someone that could



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2 help her.

3 And I couldn't -- I couldn't let go -- if
4 I -- I couldn't let go of the bullet wounds without
5 the blood just coming. And I knew it was -- that she
6 couldn't -- I could hear the blood in her lungs. I
7 could hear the blood in the lungs.

8 I asked for help so that -- when Animal
9 Control was there, I asked for help so that I could
10 get my keys and the officer helped me get my -- he
11 helped me get her in the truck.

12 Q. Did the officers say anything in response
13 to your request for assistance?

14 MR. SHIELDS: Objection.

15 A. He -- they told me that Animal Control
16 would come.

17 Q. Did they go and talk to your daughter?

18 A. I couldn't witness that, but I understood
19 that they had gone inside the house.

20 Q. Did the officers encourage you to take
21 your dog to the vet?

22 MR. SHIELDS: Objection.

23 A. The Animal Hospital?

24 Q. Did the cops tell you to take the -- take
25 Tesla to a veterinarian? A hospital? Some type of



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2 medical care -- veterinary care? Excuse me.

3 A. Yes.

4 Q. When did they tell you to take Tesla to
5 get some veterinary care?

6 A. After Animal Control had arrived. Or --
7 while I was laying there in the dirt.

8 Q. Do you know how much time passed between
9 when Tesla was shot and when you took her to the
10 Animal Hospital or veterinarian?

11 A. I have no idea.

12 Q. Earlier you said about an hour or so into
13 it.

14 Do you --

15 A. Maybe when I had said that, I just -- it
16 felt like a long time.

17 Q. Why didn't you go to the veterinarian or
18 Animal Hospital sooner?

19 MR. SHIELDS: Objection.

20 A. For one, I was trying to administer, you
21 know, like -- I was trying to stop active bleeding of
22 a loved one while I was surrounded by officers that
23 had me blocked on both of my exits to where I was at.
24 And was frozen in the moment.

25 Q. Any other reasons why you didn't take



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2 Tesla to the veterinarian sooner?

3 MR. SHIELDS: Objection.

4 A. Honestly, there was a part of me that
5 really thought Animal Control would show up and be
6 able to help me.

7 Q. And what did you believe that Animal
8 Control was going to assist you with?

9 A. First aid kit the officers were refusing
10 to help me with. And perhaps a ride to the Animal
11 Hospital.

12 Q. Did you ask for those things from Animal
13 Control when they arrived?

14 A. Yeah.

15 Q. What did Animal Control say?

16 A. "We'll give you a dirty blanket."

17 That's not what she said verbatim. It is
18 just...

19 Q. Did the Animal Control Officer communicate
20 anything else?

21 A. I don't recall that -- the exact
22 conversation I had with the Animal Control Officer. I
23 believe that they told me which Animal Hospital to go
24 to, I think. Somebody told me which Animal Hospital
25 to go to.



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2 Q. Which Animal Control hospital were you
3 told to take Tesla to?

4 A. The one that is -- well, was -- it
5 recently closed. But it was near -- is on East
6 Henrietta Road.

7 Q. Were there any other reasons that you
8 didn't take Tesla to the vet sooner? You were trying
9 to stop bleeding. Thought Animal Control would help.
10 You felt frozen for a little bit.

11 MR. SHIELDS: Objection.

12 A. I was surrounded by the officers that were
13 collected en masse around me and was just like a -- I
14 was -- I didn't feel safe to just get up and grab my
15 dog and go grab my keys and leave. I didn't -- I
16 didn't -- I didn't feel comfortable with that for some
17 time.

18 Q. Prior to this incident with Tesla, have
19 you had any negative interactions with the police?

20 MR. SHIELDS: Objection.

21 A. Throughout my life?

22 Q. Yes. At any point in your life.

23 A. Could you describe the depth of
24 "negative"? Because unfavorable -- is that what you
25 mean? Or more like just...



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2 Q. Why don't you give me an example of a
3 negative interaction and then I'll ask some follow-up
4 questions.

5 MR. SHIELDS: Objection.

6 Q. Have you had any negative interactions
7 with police in your lifetime?

8 MR. SHIELDS: Objection.

9 A. I don't recall.

10 Q. Have you had any interactions with police
11 in your lifetime that contributed to the fear or
12 discomfort that you felt on the day of the incident
13 with Tesla?

14 A. No.

15 Q. So your feelings and interpretations of
16 the officers' conduct were based on their conduct that
17 day during that incident?

18 A. In that moment, correct. Yes.

19 Q. What -- do you know the name of the
20 veterinarian that provided care to Tesla when you
21 arrived at the Animal Hospital?

22 A. I do not.

23 Q. Do you have records of Tesla's veterinary
24 care that she received at that Animal Hospital?

25 MR. SHIELDS: Objection.



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2 A. I don't believe.

3 By "records," you mean like receipts and
4 paperwork from the hospital?

5 Q. Yes.

6 A. Tesla was cremated and they were kind
7 enough to making like a paw print -- I don't know if
8 you're aware what that is, but they take a paw print
9 and press it into like a clay. And I have -- I know
10 that there is papers with those prints, but I don't
11 know if they're actual medical records or just
12 associated with that. But I know that there is
13 paperwork that I have there.

14 Q. Do you have any receipts about the cost of
15 the cremation?

16 A. No.

17 Q. How much did the veterinary care that
18 Tesla received at the Animal Hospital cost?

19 A. I don't recall.

20 Q. Do you have any sort of estimate?

21 A. No.

22 Q. You can't tell me whether it was 500 or
23 5,000?

24 A. No.

25 Q. Are you seeking to be reimbursed for the



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2 veterinary care that Tesla received on that day?

3 A. The people at the veterinary hospital were
4 so touched by the traumatic -- of the situation that
5 they had granted me a -- a -- they had given me like a
6 grant that they had or some sort of -- they had a --
7 they used money that was donated.

8 Q. So did you pay any out-of-pocket costs for
9 the veterinary care provided to Tesla on the day of
10 the incident?

11 A. To the Animal Hospital?

12 Q. Correct.

13 A. No.

14 Q. Did you pay for the cremation of Tesla?

15 A. No.

16 Q. Did you talk to anyone at the Animal
17 Hospital about Tesla's veterinary care that day?

18 A. Yes.

19 Q. Who did you talk to?

20 A. The staff. I don't know any names.

21 Q. Do you know the position of the staff
22 members?

23 A. There is front desk and there is behind
24 the door. That is about as close as I could get.

25 Q. What did -- what was the name of the



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2 individual that was at the front desk that you spoke
3 to?

4 A. I do not recall.

5 Q. What did the person at the front desk tell
6 you?

7 A. She was sorry. She was just at work.

8 Q. How many people did you talk to that were
9 quote/unquote "behind the door"?

10 A. Two, maybe three.

11 Q. Could you distinguish between
12 veterinarians versus vet techs versus assistants of
13 those two to three people?

14 A. No. I mean I don't know. I'm sure they
15 each had their own job roles, but I don't recall who
16 was who and what was what.

17 Q. What did those people tell you about
18 Tesla -- Tesla's condition?

19 A. She had multiple wounds and that there was
20 still a bullet inside of her. They told me that to
21 remove it would be an extensive surgery and that she
22 had lost significant blood and that -- that they --
23 there was a period where I was alone and they came
24 back and they said that if we were to proceed, that
25 you -- you would be on the hook for the bills that



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2 would exceed \$15,000. And at that time that was more
3 money than I had ever had. It -- so that was an
4 impossible figure.

5 And I asked him if there was like any, you
6 know -- if there was another way or -- or like -- that
7 person told me that -- I asked them, "So you're
8 telling me that she's going to die from this?"

9 And that person told me, "Yes."

10 And so then -- so then they included to
11 put her down, that they would -- it would be best to
12 have her go down than to suffer this blood loss.

13 Q. I'm sorry.

14 Did you say that there would be more blood
15 loss through the surgery?

16 A. Yeah. When -- when you do surgery on an
17 animal or person, you cut them open. There is lost
18 blood. That's not what I said, but I would agree.

19 Q. I'm sorry. I was trying to understand
20 your last statement where you said they said it was
21 better to put her down than to suffer a blood loss.

22 A. The bullet had traveled into her organs.
23 There were internal wounds that were bleeding that
24 couldn't be addressed with gauze that I was
25 requesting. And it required an expensive surgery and



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2 that was a low-percentage chance already. I remember
3 asking, "What are the chances?"

4 Q. Chances of surviving?

5 A. Of survival. They told me it was low and
6 if she did come through, she would never walk -- she
7 would never be the same.

8 Q. Did the employees at the Animal Hospital
9 tell you anything else about the location of the
10 bullet?

11 A. There was multiple bullets. They did --
12 when they x-rayed, they told me there was one inside
13 of her still, I believe. From what I recall.

14 Q. Yes. So sorry I was unclear.

15 I was asking if there was additional
16 communication about the bullet that was still inside
17 of Tesla.

18 A. I -- I feel like that was part of the
19 previous conversation that I just was referring to in
20 the last question.

21 Q. Okay. So there is no additional details?

22 A. That was such a blur. I just remember
23 crying in the parking lot.

24 Q. Did the employees at the Animal Hospital
25 talk to you about the blood loss from Tesla?



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2 A. Yes.

3 Q. What did they say other than she lost a
4 lot of blood?

5 A. The reason why she lost blood was gunshot
6 wounds.

7 Q. They said that?

8 A. Yeah.

9 Q. Did they say anything else about the blood
10 loss?

11 A. I don't recall. I remember them saying
12 that at first they were worried it was worse and then
13 they were -- it -- I -- I don't know the specifics
14 about the blood loss conversation.

15 Q. Would the surgery have had a higher chance
16 of success if she hadn't lost as much blood?

17 A. I'm not a veterinarian.

18 Q. Did they --

19 A. I would assume.

20 Q. Did they mention anything specifically
21 about whether the chance of success of the surgery was
22 related to her prior blood loss?

23 A. I do remember that that was part of the
24 risk of the surgery, was the blood loss. I remember
25 that being -- I mean you are asking me about a



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2 conversation that I had in the room four years ago
3 that I blocked out of my memory. So I don't -- I
4 don't recall.

5 Q. Yeah. That's fine. I just need to know
6 what you do remember. So that's why I'm asking that.

7 Have you ever -- you said you're not a
8 veterinarian, but have you taken any veterinary
9 classes?

10 MR. SHIELDS: Objection.

11 A. No. I mean I don't know what veterinary
12 classes is titled. Everyone has to take English 101.

13 Q. When you were at MCC, did you take
14 something like a vet tech class?

15 A. No. That is why I answered "No."

16 Q. Have you taken a first aid class?

17 A. I have had first aid training for -- I
18 have never taken a class.

19 Q. When was the first aid training?

20 A. Well, we learned first aid in the Boy
21 Scouts. You know. And the Elementary School that I
22 went to, you know, they had a -- they had this
23 traveling health professor that would come to the
24 classrooms and gave us a basic first aid lesson. When
25 I was in middle school we learned CPR, first aid.



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2 You know, you get trained to ask
3 permission before you help somebody at the scene.
4 Stuff like that. I just -- but those are instances
5 that I can recall.

6 Q. When you were -- I think you described it
7 as shielding Tesla.

8 When you were laying with her in that
9 portion of the yard, do you remember how many wounds
10 there were on Tesla?

11 A. She had blood coming from her face by her
12 ear. And she had -- I remember that there were two
13 wounds on her chest. And then there was another
14 that -- I want to say I was trying to hold three
15 different spots on her body.

16 Q. Was blood oozing out -- I think that's the
17 word you used -- from all three of those spots?

18 A. There was blood coming in all those spots.
19 Earlier when I used the term "ooze," it was a
20 reference to at one point I had released and there was
21 an ooze, like -- like the pressure had built up from
22 me stopping the blood from coming out and when I
23 released there -- I used the word "ooze" sort of.

24 Q. Like a gush?

25 A. Like a gush.



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2 Q. Was blood coming out prior to you applying
3 pressure to the wounds?

4 A. Yes. She left a trail of blood.

5 Q. Earlier you said that you could hear blood
6 in her lungs.

7 How do you know that that is what you were
8 hearing?

9 A. I spent a lot of time cuddling with the
10 dog, laying my head on her body. Laying her -- her
11 laying her head on my body. I had heard her breathe
12 in the past. I knew what it sounds like. I was
13 comfortable with the sound. I could fall asleep to
14 it.

15 And laying in the dirt, with my body, I
16 could hear the "hawk." I could hear the -- I could
17 hear the difference. I could hear the "hawk." I
18 can't verbalize a word for that. I could hear the
19 (sound representation).

20 Q. A raspiness or is it called a glottal?

21 MR. SHIELDS: Gurgling?

22 Q. Yes.

23 Like a gurgle?

24 A. It -- it was different. It -- it sounded
25 like water in a place where it shouldn't be. Or



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2 fluid.

3 Q. Did you stay at -- scratch that.

4 How long were you at the Animal Hospital?

5 A. Until it was pretty dark out. I don't
6 know the time. It was October, so it gets dark around
7 7. I was probably -- I was there for some time. Even
8 after they had -- I didn't know what to do afterwards.
9 My daughter had been taken to her grandmother's house
10 so I knew she was safe. I didn't want to go home. I
11 didn't know where to go.

12 Q. Where did you sleep that night?

13 A. I slept at a friend's house.

14 Q. How many -- well, when did you next sleep
15 back at Kosciusko Street?

16 A. Probably near November. It had to be
17 almost November at that point. I would say a long
18 week, maybe eight or nine days from that point.
19 Maybe.

20 Q. Did you miss any work because of the
21 incident?

22 A. I did.

23 Q. How many shifts did you miss?

24 A. I missed the rest of that week.

25 Q. And --



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2 A. Well, it was -- it was Friday and then --
3 I remember I called in and then called again. I don't
4 recall how many days specifically I had called into
5 work. But -- again, this is like four years ago.

6 Q. Did you use paid leave for those absences?

7 A. I don't recall. If I had the sick time,
8 I'm sure they gave it to me, but I don't recall.

9 Q. Are you seeking to be compensated for your
10 missed work because of the incident?

11 MR. SHIELDS: Objection.

12 A. You're asking if I'm asking to be paid for
13 my hourly wage that I missed? Is that what you're
14 saying?

15 Q. Or -- yeah. Yeah.

16 Are you seeking to be compensated for
17 that? If so, I need to figure out how much that is.

18 So -- so are you seeking to be compensated
19 for the work you missed at -- or having to use your
20 paid leave for that time period?

21 MR. SHIELDS: Objection.

22 A. I never returned to work the same. From
23 that.

24 Q. Is that a "yes," "no" or "I need to think
25 about it"?



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2 A. Yes.

3 Q. You work for the same employer as you did
4 in 2018?

5 A. Yes.

6 Q. Do you know who at work you would contact
7 to get a copy of your attendance and/or pay records
8 for that time period?

9 A. Human Resources with the United Parcel
10 Service.

11 Q. Is there a particular person in Human
12 Resources you would contact?

13 A. Not whose name I know off the top of my
14 head.

15 MS. JONES: Okay. It's 12:45. We can
16 stop for lunch since we're well past noon.

17 Off the record.

18 (There was a discussion off the record.)

19 (The proceedings recessed at 12:45 p.m.)

20 (The proceedings reconvened at 1:48 p.m.;
21 appearances as before noted.)

22 CHARLES R. DEMPSEY III, resumes;

23 CONTINUING EXAMINATION BY MS. JONES:

24 Q. Did you have a chance to talk to your
25 attorney over break?



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2 A. Yes.

3 Q. Did you want to add anything to your
4 answers that we had before lunch or since we started
5 this morning?

6 A. No.

7 Q. So your attorney just emailed me some
8 documents.

9 Do you recognize these? Do you recognize
10 these documents?

11 A. The header appears to be from the
12 veterinary hospital.

13 Q. Have you seen these documents before?

14 A. That looks like a -- it looks familiar.

15 Q. Okay.

16 MR. SHIELDS: For the record, I forwarded
17 an email from the veterinary emergency hospital of
18 records that we just got from the veterinary emergency
19 hospital during the lunch break.

20 Q. Did you request these records from the
21 veterinary hospital?

22 A. Yes.

23 Q. When did you request these records from
24 the veterinary hospital?

25 A. We just got them.



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2 Q. Is there -- when did you request these
3 records from the veterinary hospital?

4 A. We just made a phone call to request them.

5 Q. Like earlier today?

6 A. Yes.

7 Q. Is this location still open?

8 A. Um, I believe they're in the process of
9 changing that.

10 Q. So I thought earlier you said that the
11 veterinary hospital you took Tesla to is now closed?

12 A. In the news it was mentioned that the
13 emergency services for veterinary care there was
14 shutting down and that was the last option for people
15 in the City of Rochester area. That's why it was
16 newsworthy.

17 Q. When did you read that in the news?

18 A. That was a few -- that was a few weeks
19 ago. Maybe about a month or more.

20 Q. So you saw it was shutting down?

21 A. Yeah. I didn't like go into depth, but I
22 recall --

23 Q. Did you know -- or do you know if the
24 location is -- scratch that.

25 Is this the location of the veterinary



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2 hospital that you took Tesla to?

3 MR. SHIELDS: Objection.

4 A. "This" in reference to?

5 Q. The --

6 A. I can't see what you're --

7 Q. Sure. I have the same records up I had a
8 minute ago.

9 Is this the name of the hospital that you
10 took Tesla to on the date of the incident?

11 A. Yeah. I believe so.

12 Q. Okay. Okay. I will show you a body-worn
13 camera video. So this is a video of -- well, we have
14 his name as Lindauer, L-I-N-D-A-U-E-R.

15 I'm going to show you this video because
16 it depicts again that part of -- where you were
17 holding Tesla in the corner of your yard. And I would
18 like you to identify -- if it is in this video -- the
19 point where you felt -- I forget the words you used --
20 like surrounded -- not barricaded.

21 Do you know what I'm referring to? I
22 forget the word you actually used.

23 A. I understand what you're referring to.

24 MR. SHIELDS: Objection.

25 Q. So what word do you want to use for that



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2 time where you felt enclosed, kept?

3 A. That my liberties were impeded on --

4 Q. Yes.

5 A. -- to freely roam on my property?

6 Q. Yes.

7 You felt like you couldn't leave; is that
8 fair?

9 A. I would assume the entirety of the video
10 before you play it, but --

11 Q. Okay. So -- so I will play it and we'll
12 see where we get to.

13 (The video was played.)

14 Q. Okay. So this is the officer's body-worn
15 camera.

16 Again, I have turned up the sound a little
17 bit. This is a video ending in 00:15. I've skipped
18 it ahead to 17 seconds in the video. Right now the
19 time stamp in the lower right-hand corner is 17:31:41.
20 I'm just going to play it for a bit. And if there is
21 ever a point in this body-worn camera video where you
22 felt like your liberties were -- as you say -- you
23 weren't at liberty to leave, let me know.

24 (The video was played.)

25 A. May I?



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2 Q. I'll pause it.

3 A. I can't see.

4 Q. Oh, sorry.

5 A. Thank you.

6 (The video was played.)

7 Q. So he did take a few steps towards you
8 though. He's walking.

9 (The video was played.)

10 Q. Okay. So I paused it at -- at 57 seconds
11 into the video. 17:14:22 is the time stamp.

12 So he has gotten a little closer to you.
13 Are you feeling like you're not at liberty to leave at
14 this point?

15 MR. SHIELDS: Objection.

16 A. That's correct. There is an officer
17 standing over looking at me -- right there in the
18 video -- in the top left corner of the fence who's
19 looking down on me.

20 Q. So it is not maybe this officer that's
21 making you feel --

22 A. You're asking me about my feelings.

23 And that officer is approaching me into a
24 corner. So he is cornering me.

25 Q. So this officer at this point in time,



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2 given his location and the combination of the officer
3 looking over the fence, that's what's making you feel
4 like you cannot leave?

5 A. At that point in time, I'm trying to find
6 help.

7 Q. No. I -- I just want to -- so I feel like
8 you're not answering my questions clearly. I'm trying
9 to make sure I'm understanding you correctly.

10 So am I understanding you correctly when I
11 say this officer in this position right here at
12 17:14:22, in combination with the officer looking over
13 the fence, makes you feel like you are not free to
14 leave?

15 MR. SHIELDS: Objection.

16 A. Yeah.

17 Q. So I will push play.

18 (The video was played.)

19 Q. Okay. So I don't -- I paused it at
20 1:39:17:15 because he starts blocking his body-worn
21 camera with his arm. I'm going to scoot forward.

22 Okay. So I scooted the video forward to 2
23 minutes into the video at 17:15:24. And I'm going to
24 push play again because we can actually see again.

25 (The video was played.)



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2 Q. So I paused it at 9 seconds later.

3 Can you describe what is going on right
4 now in the video?

5 A. Yes. There is three, four officers that
6 had me surrounded while I'm laying on the ground with
7 my dog.

8 Q. Okay. Can you tell me where the officers
9 are?

10 A. Yeah.

11 There's an officer on my porch. You can
12 see that the officer just before had moved across the
13 gaps in the fence line.

14 Q. Okay.

15 A. There is the officer recording this video.
16 And there is that officer there (indicating).

17 Q. So the officer recording, the officer
18 taking a picture of you and you're talking about
19 officers behind the fence, as well?

20 A. Yes.

21 Q. So did know the officers were behind the
22 fence in the moment when you were --

23 A. Yes. I was aware of the officers looking
24 down on me from over the fence.

25 Q. It's their presence looking at you in



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2 combination with these two officers --

3 A. I'm surrounded.

4 Q. Hold on.

5 A. I didn't mean to interrupt.

6 Q. So I just need to be clear.

7 So you're saying you feel surrounded
8 because of the officer that's taking the body-worn
9 camera video and this officer taking a picture of you
10 and the officers that are behind the fence walking
11 around?

12 MR. SHIELDS: Objection.

13 A. I feel surrounded because every 45 degrees
14 from where I'm at there is no exit point but through
15 officers or a wall of a home. There -- there -- I'm
16 in a corner.

17 Q. Okay. All right. I'm going to push play.

18 (The video was played.)

19 Q. So I pushed play again and it played for a
20 second and I pushed pause. So now --

21 A. The time stamp is --

22 Q. Yeah, sure.

23 So now we're at 2:34 into the video and
24 the time stamp on the BWC is 17:15:58.

25 So would you like to describe what's in



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2 the screen now?

3 MR. SHIELDS: Objection.

4 A. I see -- I see the body camera. The
5 person wearing the body camera was putting on gloves.

6 Q. Yes.

7 A. Which -- I see another officer who has
8 entered through my fence, which was locked. By that
9 lock right there. They had unlocked that lock to get
10 into the fence.

11 Q. Okay.

12 A. And I see myself in the corner.

13 Q. So you are still feeling like you cannot
14 leave at this point in time?

15 A. Yeah.

16 Q. Okay. Tell me again why you feel like you
17 cannot leave at this point.

18 A. Because there is no --

19 MR. SHIELDS: Objection.

20 A. -- physical place for me to go. I'm
21 surrounded by guys who have already established that
22 they feel comfortable opening fire on -- like --
23 I'm -- I'm not comfortable even now looking at this.

24 Q. So you didn't feel like you could get up
25 and walk past this officer whose body-worn camera



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2 video we're watching?

3 A. No.

4 Q. And that was because why exactly?

5 MR. SHIELDS: Objection.

6 A. Because I was afraid that they were going
7 to continue to fire at my dog if I was to release her.
8 I was afraid that she would bleed out if I was to let
9 go of her wounds.

10 Q. So I feel like those are two separate
11 things.

12 A. But I was dealing --

13 MR. SHIELDS: Objection.

14 A. -- with both of them at the time.

15 Q. Sure. That is fair.

16 But I guess my question is what were the
17 officers doing that made you feel like you could not
18 move?

19 A. Surrounded --

20 MR. SHIELDS: Objection.

21 A. Surrounding me, hovering over me. I'm
22 surrounded by officers. Officers just continue to
23 appear at that fence. There -- I have seen at least
24 four officers already in the seconds that you have
25 shown me a video.



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2 MR. SHIELDS: Objection.

3 Q. So is there anything else besides their
4 presence that makes you feel intimidated or that you
5 cannot leave?

6 MR. SHIELDS: Objection. You have asked
7 the same question about five times which is about --

8 A. The physicality of it?

9 MR. SHIELDS: You have asked the question
10 about five times, which is where the Courts draw the
11 line for questions being harassing and so I'm going to
12 ask you to move on or I'm going to make an instruction
13 for him to stop answering this question.

14 Q. Is there anything about this officer that
15 is standing right in front of you that just came
16 through the fence, besides his mere presence, that
17 looks intimidating or that communicates to you --

18 MR. SHIELDS: Objection.

19 Q. -- that you should not -- that you cannot
20 move -- I got to get the whole question out.

21 Is there anything about this officer that
22 is standing right in front of you next to the gate,
23 other than his presence, that indicates to you that
24 you cannot leave?

25 MR. SHIELDS: Objection.



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2 A. The fact that he is obstructing my path of
3 leaving.

4 Q. Okay. Let me fast-forward a bit.

5 In the video we just saw, do you know how
6 far the officer was standing in front of you, the one
7 with the body camera footage -- or video on him?

8 A. During the sequence you showed me, he
9 continued to approach me. He was closer the longer
10 the video ran.

11 Q. Sure.

12 So what was the closest he got to you?

13 A. Feet?

14 Q. Yes.

15 A. Feet away. I -- I -- feet. I -- I -- I
16 mean if you want me to look at it and make an
17 estimated guess, that's the best I could do.

18 Q. Okay. This is that same video. This is
19 towards -- well, I have put it to 2 minutes into the
20 video. We can play and see if he gets any closer to
21 you.

22 Same video with -- how do you pronounce
23 his name -- Lindauer that ends in 15. We're at 2
24 minutes and 1 second into the video. The time stamp
25 is 17:15:25. And we're going to push play.



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2 (The video was played.)

3 Q. So I just played it for a few seconds so
4 you could look at it again and get an idea how far
5 away from you he was.

6 Can you estimate how far he was from you?

7 MR. SHIELDS: Objection.

8 A. Based on the fact that my feet aren't even
9 included in the frame, would mean that I'm somewhat
10 around distance from his chest -- the distance from
11 him to me is going to be, I would think, between his
12 chest and the ground.

13 Q. The -- okay. So an average officer might
14 be 6 feet tall, so less than 6 feet?

15 MR. SHIELDS: Objection.

16 A. Yeah, I mean -- I would say what --

17 MR. SHIELDS: Objection. Objection. I
18 don't think the average officer is 6 feet tall.

19 A. Feet, I had -- I mean.

20 Q. I like dealing in round numbers. We'll
21 just go with 6 feet.

22 So it is definitely less than 6 feet
23 because you're saying a body-worn camera would be
24 somewhere along his chest height?

25 MR. SHIELDS: Objection.



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2 A. That's where I -- it should -- that's
3 where they normally carry it. I don't recall if the
4 guy has his camera in his hand like the other officer,
5 but we saw him put on gloves in the video, so I would
6 assume not.

7 Q. I just want to -- so are you -- so you're
8 saying less than 6 feet is a fair approximation?

9 MR. SHIELDS: Objection.

10 A. That's kind of what I'm approximating
11 based on looking at the video here.

12 Q. Okay. Do you remember in that situation
13 there being other times when you felt more or less
14 able to leave?

15 A. Yes.

16 Q. Okay. What about those other situations?

17 MR. SHIELDS: Objection.

18 Q. So what specifically do you remember about
19 feeling less able to leave?

20 MR. SHIELDS: Objection.

21 A. Officers continued to come and go past me
22 and blocked the exit to my yard. That -- continuing
23 beyond that point in the video we just watched. There
24 was an officer that stood over me.

25 Q. Yeah. I think you're talking about this



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2 video, so I will pull it up.

3 I pulled up --

4 MR. SHIELDS: Objection.

5 Q. -- Adam Broadsky?

6 MR. SHIELDS: Objection. I don't think he
7 is talking about a video personally.

8 Q. I pulled up Officer Broadsky's body-worn
9 camera, the one that ends in 003. I will play this
10 for you. It's from his perspective. But you can tell
11 me if this rings a bell.

12 I will start playing it from the
13 beginning. And right now we're about 10, 12 seconds
14 in. Time stamp is 17:32:33.

15 (The video was played.)

16 Q. Does this video depict what you were
17 referring to about an officer standing over you?

18 A. That appears to be a video of him standing
19 right above me.

20 (The video was played.)

21 Q. Do you remember having a conversation with
22 the officer when he was standing over you?

23 A. I don't recall the -- the details of the
24 verbal -- I don't remember words that --

25 Q. Do you remember having a conversation with



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2 the officer when he was standing close to you?

3 A. I -- I don't -- I just -- there was a lot.
4 I remember speaking. I remember them speaking to me.

5 Q. Do you remember speaking to this officer
6 who was close to you?

7 MR. SHIELDS: Objection.

8 A. In this moment, not particularly. I'm
9 not...

10 Q. Okay. Let's see. So would -- the officer
11 that was close to you, was it his physical presence or
12 something else that he did that made you feel like you
13 could not leave?

14 MR. SHIELDS: Objection.

15 A. Yes.

16 Q. Okay. What else did he do besides being
17 present that made you feel like you could not leave?

18 MR. SHIELDS: Objection.

19 A. He stood over me cornered. Every time I
20 looked up at him, I had to see past his -- his
21 weapons, his belt. Which included his gun, which at
22 many points he had his hand on his waist. So I felt
23 like he was there to -- I don't know what. Guard. I
24 don't know what word to use. I felt like he was
25 posted to make sure that I didn't leave.



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2 Q. Did you ever communicate that to the
3 officer?

4 MR. SHIELDS: Objection.

5 A. I -- again, I don't recall the words of
6 what happened there.

7 Q. So you don't remember one way or another
8 if you told him his presence was intimidating or not?

9 MR. SHIELDS: Objection.

10 A. I feel like I did.

11 Q. Do you remember what you said?

12 A. No.

13 Q. Okay. Okay. We are going to fast-forward
14 a little bit. Okay. So we're still on Adam
15 Broadsky's body-worn camera that ends in 003. I'm
16 going to move ahead in the video to a minute 16 and
17 I'll play it for a little bit.

18 And tell me which of the other officers
19 that come into the screen are responsible for making
20 you feel like you cannot leave.

21 MR. SHIELDS: Objection.

22 (The video was played.)

23 Q. Oh, I don't know if I said time stamp.

24 MR. SHIELDS: Can you stop hitting the
25 court reporter's computer? I'm afraid it's going to



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2 fall off the table.

3 MS. JONES: My apologies.

4 Q. So it was 1:18 into the video at 17:33:34
5 on the time stamp.

6 A. Can you please move it?

7 Q. Yep. Yep. I'm pushing play.

8 (The video was played.)

9 Q. Is this the officer that just came in that
10 you felt like was standing over you?

11 MR. SHIELDS: Objection.

12 Q. Do you know?

13 A. The officer just that entered?

14 Q. Yes.

15 A. The --

16 Q. I'll play it --

17 A. The guy with the mustache I'm looking at.

18 Q. So now he is kind of out of the screen.

19 Is it the officer now speaking or the one
20 with the mustache?

21 MR. SHIELDS: Objection.

22 A. I feel like the position of where the man
23 with the mustache is -- is how I recall --

24 Q. Okay.

25 A. -- the position that I was.



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2 (The video was played.)

3 Q. Okay. Because I realize this guy
4 eventually leaves.

5 (The video was played.)

6 Q. Is it this guy?

7 MR. SHIELDS: Objection.

8 A. The guy that's guarding my door?

9 Q. That's not how I would describe it, but
10 this guy with the mustache.

11 MR. SHIELDS: Objection.

12 A. The guy that is completely holding my gate
13 in his hand? In control of my gate?

14 Q. Sure.

15 A. And who comes and goes out of my yard?

16 Q. Sure.

17 MR. SHIELDS: Objection.

18 A. Is that man intimidating me and making me
19 feel like I can't come and go? Yes.

20 Q. So just for the record, I stopped it at
21 2:46 into the video at -- 17:35:02 is the time stamp.

22 So more on this, is it this, what he is
23 doing right now, or something else that made this guy
24 particularly intimidating?

25 MR. SHIELDS: Objection.



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2 A. I'm -- are you asking about in this second
3 of this moment of -- in that moment? Or are you
4 asking about the situation as a whole?

5 Q. Well, I was asking particularly about
6 these few seconds. I can rewind them a little bit.
7 You said we were talking about when he was holding the
8 door.

9 A. Which he --

10 Q. So I thought we were talking about him
11 holding the door.

12 So was it him holding a door that is
13 intimidating or was there something else?

14 MR. SHIELDS: Objection.

15 A. There is one, two, three, four, five, six
16 guns in that clip right there. I just watched a
17 pistol smoke. I am at that point afraid of guns. He
18 has one just above my head. If he was to trip over,
19 he could potentially have struck me with it because he
20 is that close to me.

21 Q. So I feel like you're saying --

22 A. So I'm fearful of his weapon. Which I
23 feel like that's what you're trying to ask me.

24 Q. Um, yeah. But I feel like you're saying
25 it's multiple things. It's not just this guy standing



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2 here in front of you holding the door with a gun on
3 his hip.

4 It's the other officers outside that also
5 have guns that in totality indicate to you that you
6 are not free to leave?

7 MR. SHIELDS: Objection.

8 A. Yeah.

9 Q. Okay. I just want to make sure I
10 understand you correctly.

11 A. Great.

12 Look at it. What would my options have
13 been? There was no -- what -- what would you do here?

14 Q. Do you know why or how you were able to
15 gather the courage and ultimately leave with your dog?

16 MR. SHIELDS: Objection.

17 A. My brother had taken my daughter from the
18 scene and when Animal Control arrived and I realized
19 that it wasn't the dog ambulance that I thought it
20 would be -- does that answer your question?

21 Q. I'm still a little unclear.

22 What about the realization that Animal
23 Control wasn't going to take your dog enabled you to
24 then take the dog yourself?

25 MR. SHIELDS: Objection.



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2 A. Are you asking what made me decide to get
3 out of the dirt? Or are you asking what -- I --
4 what -- when you say the courage to leave, what --

5 MR. SHIELDS: For the record --

6 A. I'm confused.

7 Q. Did the officer -- did the officer leave,
8 the one that was standing at the gate?

9 MR. SHIELDS: Objection.

10 A. Those officers were there until I had
11 left.

12 Q. So if --

13 MR. SHIELDS: For the record, you're not
14 showing him video anymore when you're asking him
15 questions about the video.

16 MS. JONES: I'm not asking questions about
17 the video.

18 MR. SHIELDS: Sure you are.

19 Q. I'm asking you what -- what do you
20 remember about how or why you were finally able to
21 leave if you're saying that the officers were blocking
22 your ability to exit?

23 MR. SHIELDS: Objection.

24 A. When Animal Control arrived and told me
25 that I would have to be responsible to take the dog



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2 myself, I trusted that Animal Control would be able to
3 keep my dog safe from the officers opening fire on her
4 again.

5 Q. Did the Animal Control Officer have a
6 weapon?

7 MR. SHIELDS: Objection.

8 A. I don't know.

9 Q. What -- what did the Animal Control
10 Officer do to indicate to you that the officer could
11 keep your dog safe from the police officers?

12 MR. SHIELDS: Objection.

13 A. I -- I just had this blind faith in it.

14 Q. Do you remember the officer leaving from
15 behind the gate or from where he was holding the gate
16 to provide a path for you to leave?

17 A. The mustached officer?

18 Q. Correct.

19 A. Um, no. I do not recall -- I -- I do not
20 recall.

21 Q. So do you remember one way or another if
22 he --

23 A. He had to because physically I could not
24 have left if he didn't move.

25 Q. Do you remember which officer helped you



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2 carry Tesla into the car?

3 A. I remember he had nice hair. By "nice,"
4 I -- just -- full, I guess. Dark hair. I remember he
5 had dark hair.

6 Q. In -- well generally speaking, how would
7 you say this incident with Tesla has affected you?

8 MR. SHIELDS: Objection.

9 A. For one, I'm sitting here shaking. Five
10 years later.

11 MR. SHIELDS: For the record, my clients'
12 hands are shaking.

13 Q. So you're saying that the incident causes
14 you to shake?

15 MR. SHIELDS: Objection.

16 A. The incident follows me every day of my
17 life.

18 Q. I'm sorry.

19 Was that a "yes" or "no" about the
20 incident causes you to shake?

21 A. Yes.

22 Q. Because, you know, some people are just
23 nervous about depositions.

24 MR. SHIELDS: Objection.

25 Q. So the incident causes you to shake.



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2 How else does the incident affect you?

3 A. It made my home uncomfortable to be -- it
4 made me socially secluded. It felt real loss, like
5 heartbreaking loss for months.

6 Every time that I see a Black Lab, whether
7 it be in a photograph or in person, every time I -- I
8 have a dog now and sometimes -- I love -- I love the
9 dog that I have now. I do. She loves me. But
10 sometimes I look at her and I remember that she's not
11 the dog that I had. You ever look at somebody that is
12 close to you and feel like they're your second pick?

13 I can't -- I can't enjoy things that I
14 used to enjoy. I made reference earlier to I used to
15 play video games, shooters. I can't -- I don't enjoy
16 it -- my first-person shooter games anymore because of
17 having seen body camera footage. It's -- I mean it's
18 an obvious relation to first-person shooting. I
19 can't -- I haven't -- and that used to be my hobby.

20 I don't even have like -- I can't -- I
21 don't -- I can't sit here all day and tell you about
22 how every single day I'm reminded of this. About how
23 my relationship with my daughter never -- how I wasn't
24 there for her and how I proceeded to not be there for
25 her while she was traumatized from this because I was



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2 too traumatized.

3 I thought that I had faith in -- that --
4 that therapy would help ease -- ease pain. I --
5 tried -- I drive by the Clinton police station every
6 day on my way to work, every single page, and I'm
7 worried that some officer that knows about that might
8 want to come out and pick on me.

9 I'm ashamed of all of the people that got
10 to see that body-camera footage. That -- that heard
11 me and saw me at the weakest.

12 I can't -- I can't even like -- I'm not
13 forming sentences because it -- when she -- when --
14 when I stepped out into the yard and began to interact
15 with Officer Algarin, Tesla bled out on my porch and I
16 was unable to get the blood out. I was able to get
17 the blood off the floors in my house from off of my
18 body, but I was never able to get the blood off of
19 that porch. I have it covered and -- and every time I
20 look at the cover, I'm reminded of why it's there.

21 Q. I thought you no longer lived at the --

22 A. I own the home.

23 Q. Do you still live at the Kosciusko
24 Street --

25 A. No.



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2 MR. SHIELDS: Objection.

3 Q. How often do you go to the Kosciusko
4 Street residence?

5 A. At least once a month. Every couple
6 weeks.

7 Q. Do you rent out that location?

8 A. Currently.

9 Q. So you're going there to take care of your
10 tenants at that location?

11 A. Yes.

12 Q. Have you considered a property management
13 company?

14 MR. SHIELDS: Objection.

15 A. I don't have an LLC. Is that the same? I
16 don't know. I would say no.

17 Q. Meaning have you considered having someone
18 else manage the property for you and take care of
19 those kind of things?

20 A. I don't understand how those things
21 operate, so no.

22 Q. No one has ever suggested you could
23 have -- pay someone else to handle the property for
24 you?

25 MR. SHIELDS: Objection.



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2 A. No.

3 Q. You said that the incident made you
4 socially secluded.

5 What do you mean by that?

6 A. I -- for example, at my job, when we start
7 our shift, we have a safety meeting with the entirety
8 of the staff and it's in a group, a collective group.
9 And up to that point in my career, I would be part of
10 that group and interact with the meeting and answer
11 questions.

12 And ever since then and for the last
13 several years, I am afraid to be in the middle of that
14 group because I feel like everybody knows what
15 happened and I was -- didn't want to address it. And
16 it -- it went from just hiding from the -- just hiding
17 to just like -- it became the habit. And I -- I
18 don't -- I stopped going out. I stopped answering
19 people that reached out to me.

20 Q. Are you still not participating in the
21 safety group at work?

22 A. Yeah. I still stand behind the truck
23 while it's happening.

24 Q. Have you talked with any of the employees
25 at work to gain information about how they feel about



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2 the situation?

3 MR. SHIELDS: Objection.

4 A. I don't understand your question totally.

5 Q. Have you ever talked to anybody and said
6 "Hey, do you still think about this incident? What do
7 other people think about? Are people talking about
8 it?"

9 Like why -- that kind of thing.

10 MR. SHIELDS: Objection.

11 A. I have had co-workers approach me and ask
12 me just that, "Hey, you know, what's going on with
13 that? You doing all right? What's happening?"

14 I have had other workers approach me.

15 Q. Was that Tom or Lee that you mentioned
16 earlier that approached you?

17 A. Lee Johnson in reference.

18 Q. It sounds like he was asking if you were
19 doing all right.

20 Did you not interpret the inquiry, his
21 catching up with you in a friendly manner?

22 MR. SHIELDS: Objection.

23 A. He was asking me if I had made a -- if
24 there was any resolution, if anybody had been held
25 responsible.



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2 Q. Have you spoken with anyone else about
3 whether or not they have feelings about the incident?

4 A. Over the course of the last five years?

5 Q. Uh-huh. But specifically at work.

6 MR. SHIELDS: Objection.

7 A. Have I asked other employees about that?
8 Their opinion on me?

9 Q. I'll move on. I'll move on.

10 Can you give me other examples about how
11 you're socially secluded after the incident?

12 A. Up to that point, I was very neighborly.
13 I would help my neighbors with their yard, clean
14 gutters. I would help this senior lady across the
15 street, just -- even moving groceries.

16 After that point, I never -- I never
17 strayed down the street just to say "Hi" to my
18 neighbors. I like -- I liked -- what I liked about
19 living there was the community that -- you know, I
20 knew my neighbors. I stopped talking to them.

21 Q. Why did you stop talking to the neighbors?

22 A. I became just -- I became afraid just to
23 approach any -- any conversation. I was depressed.
24 I -- I -- I couldn't -- I didn't have the courage to
25 go and face people and put a face on.



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2 Q. So how long after the incident did you
3 feel unable to engage in conversation and interact
4 with your neighbors?

5 A. I still feel differently.

6 Q. You still feel differently or you still
7 feel this way you have been describing?

8 A. I still feel differently than I did before
9 the incident. And I still have those feelings like
10 now. I don't -- I have new neighbors. I haven't even
11 introduced myself to them. That's not who I was
12 before.

13 Q. What did you mean when you said that you
14 were ashamed of all of the people that -- or ashamed
15 because of all of the people who saw the body-worn
16 camera footage?

17 MR. SHIELDS: Objection.

18 A. The body-cam-worn footage was posted to
19 YouTube, which was posted by the Associated Press,
20 which was picked up by The Sun, which was picked up by
21 over a dozen different media outlets. In each of
22 these feeds and shares, networks just spread to the
23 number of people and places where people had seen me
24 in my worst moment.

25 Q. Which body-worn camera video was posted to



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2 YouTube?

3 MR. SHIELDS: Objection.

4 A. The first one you showed me.

5 Q. Officer Algarin's?

6 A. Yes.

7 Q. Did you think you did anything wrong in
8 that video?

9 MR. SHIELDS: Objection.

10 A. Define "wrong."

11 Q. I mean that's up to you and your own
12 world.

13 Do you think you did anything wrong in
14 that video?

15 MR. SHIELDS: Objection.

16 A. I did the best I could.

17 Q. Then can you help me understand if you
18 feel like you did the best you could, why you feel
19 embarrassed by the video?

20 MR. SHIELDS: Objection.

21 A. I tried to demand for him to leave my yard
22 and he just stood there. Made me feel so
23 insignificant.

24 The way -- the way my voice crackled and
25 the way I collapsed. I fell to my knees. How I --



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2 how it "feeled" is evident. I was unable to provide
3 support for both my dog and my daughter. It hurts me
4 that I wasn't there. And that's why when you asked me
5 if I did something wrong, I couldn't be in both places
6 at the same time.

7 Q. Did you watch the video that was posted to
8 YouTube in its entirety?

9 MR. SHIELDS: Objection.

10 A. Yes.

11 Q. What did you mean by you felt like you
12 couldn't be there for your daughter when she was also
13 going through this traumatic incident? At what point
14 were you not there for your daughter?

15 MR. SHIELDS: Objection.

16 A. The entirety of the incident.

17 Q. So are we talking about the day of the
18 incident or the weeks, months, years later or
19 afterwards when she is processing it?

20 A. I felt that we were in reference to the
21 day of the incident. But that hurts me because I
22 was -- I wasn't in a proper headspace to -- just lost
23 for so long. I thought I was over this.

24 Q. So when you say you weren't there for your
25 daughter, you're not just talking about the day of



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2 because you were addressing Tesla, but also in the
3 weeks or months after?

4 A. No. I'm saying that -- that I was not
5 emotionally strong. That she is in a house screaming
6 and banging and I couldn't -- I couldn't -- I
7 couldn't -- I'm so grateful that my brother arrived
8 and was able to take her from the scene because I
9 don't know how I would have -- or what I would have
10 been able to do.

11 Q. Did you consider leaving Tesla and going
12 inside and consoling your daughter briefly?

13 MR. SHIELDS: Objection.

14 A. No. I was in fear of the officers who
15 were in my yard.

16 Q. Prior to September -- prior to this
17 incident with Elsa -- Elsa -- Tesla -- excuse me --
18 had you ever been screened for mental illness?

19 A. No. Screened? I don't understand what
20 that means. But I would say no since I never -- don't
21 recall anything along that.

22 Q. Prior to this incident, have you ever had
23 a medical professional recommend that you engage in
24 therapy?

25 A. No.



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2 Q. Prior to this incident have you ever had a
3 family member suggest that maybe you have mental
4 health concerns or issues?

5 A. No.

6 Q. Had your daughter's mother ever suggested
7 to you that she thought you had some mental health
8 concerns?

9 A. I -- I don't know what you mean. Had she
10 said like "You're crazy" before?

11 Q. Yes.

12 A. Yes.

13 Q. Had she ever said anything else that might
14 implicate you might have some mental health issues?

15 MR. SHIELDS: Objection.

16 A. She, for some reason, claims I had -- was
17 a narc -- what is the word she used? Narcoleptic?
18 That I -- I would like fall asleep in my soup. Is
19 that right, narcoleptic?

20 MR. SHIELDS: Narcolepsy.

21 Q. I know what you're referring to.

22 Prior to this incident, did you ever
23 believe that you had some mental health issues or
24 concerns?

25 A. No.



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2 Q. Has anyone in your family ever been
3 diagnosed with any sort of mental illness?

4 MR. SHIELDS: Objection.

5 A. No.

6 Q. Has anyone in your family thought they
7 might have some mental health concerns?

8 MR. SHIELDS: Objection.

9 A. Mental health is a very vague topic.

10 Q. So when I say "mental health," what are
11 you thinking about?

12 MR. SHIELDS: Objection.

13 A. Again, I -- I believe it to be a very
14 vague -- like spectrum of -- non-physical ailment, I
15 suppose. I guess if you wanted me to say.

16 Q. So yes, it is definitely or usually not
17 physical. Any sort of ailment or illness that
18 originates in the mind or emotion. So that can be
19 anything like depression, anxiety, PTSD, bipolar
20 disorder, schizophrenia, anorexia. Some people put
21 eating disorders as mental illnesses. Anything that
22 would fall into a category like that.

23 So with that said, are you aware of anyone
24 in your family having any sort of mental health
25 concern prior to this incident?



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2 MR. SHIELDS: Objection.

3 A. No.

4 Q. And with that definition in mind, have you
5 ever had any mental health concerns in your lifetime
6 prior to this incident?

7 MR. SHIELDS: Objection.

8 A. No.

9 Q. In some of your medical records it says
10 you dealt with depression at a young age.

11 Do you remember that?

12 MR. SHIELDS: Objection.

13 A. Dealing with depression at a young age?

14 Q. Yes.

15 A. I do not remember that.

16 Q. I'm going to show you what is
17 Bates-stamped. We talked about this with your
18 daughter. That all of these pages have numbers in the
19 bottom right-hand corner called Bates-stamps. I will
20 refer to them by this little number.

21 A. This one is DEMPSEY 2602 and this
22 paragraph, the second sentence, um, it talks about you
23 having depression. I will give this to you. Go ahead
24 and read the whole paragraph if you would like and
25 tell me if this jogs your memory at all.



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2 MR. SHIELDS: Are these included in the
3 email you sent me yesterday?

4 MS. JONES: I do not know.

5 A. What was your question again?

6 Q. So do you remember reporting to Rochester
7 Regional you had experienced or -- or dealt with
8 depression at a young age?

9 A. Which -- who am I speaking to on this?
10 Oh, down here. To Desiree in September of 2021? I
11 don't recall our session discussion at that time.

12 Q. You don't remember reporting or sharing
13 with this clinician that you had previously
14 experienced depression?

15 MR. SHIELDS: Objection.

16 A. I don't recall.

17 Q. Sorry. I'm just -- I'm trying to be clear
18 about what "I don't recall" means. So you don't
19 remember saying that one way or another? Or you don't
20 remember --

21 A. I don't understand what I would have told
22 her that would have given her that interpretation.

23 Q. Okay. Because as far as your memory goes,
24 you have never dealt with depression prior to this
25 incident?



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2 MR. SHIELDS: Objection.

3 A. I don't -- again, I'm stuck trying to
4 recall what I would have said to her that made her --

5 Q. Sure. I will give you the prior page
6 DEMPSEY 6201. Up here in this paragraph it gives a
7 little more detail. This person says "Client reports
8 he started experiencing depressive and anxiety
9 symptoms in his late 20s. But that sometimes it's
10 increased."

11 Do you remember any depression in your
12 late 20s?

13 MR. SHIELDS: Can you please read the rest
14 of the sentence?

15 MS. JONES: Sure.

16 Q. "But is somewhat of a poor historian."

17 So do you remember stating that you
18 experienced depression in your late 20s?

19 MR. SHIELDS: Objection. I don't think
20 that that is exactly what that says.

21 A. I -- I -- I don't recall. Is this -- when
22 was this from?

23 Q. Sure.

24 A. Is this also --

25 Q. At the top they have the dates of the



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2 visits. So this date would have been August 31st of
3 2021. You can flip it over if you would like. It has
4 the -- the page before and then it just goes into --

5 MR. SHIELDS: Objection.

6 A. At this point, I had been talking to
7 somebody for a while and I was really trying to
8 like -- I guess I had a blind faith that therapy would
9 just open up this door for me and I would see like a
10 brighter -- I don't recall being depressed in my late
11 20s.

12 Q. Do you remember having anxiety in your
13 late 20s?

14 MR. SHIELDS: Objection.

15 Q. Or do you remember experiencing anxiety in
16 your late 20s?

17 MR. SHIELDS: Objection.

18 A. I was a single father living in the City
19 of Rochester, you know. Anxiety was -- you worry
20 about things every day.

21 Q. What is your understanding of the term
22 "anxiety" then?

23 A. I consider "anxiety" just an uncomfortable
24 prediction of the future.

25 Q. Okay. So at some point anxiety rises to



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2 an unhealthy level and then I think you become
3 diagnosed with anxiety. So when it's more frequent
4 than, you know, maybe once a month and you're
5 experiencing it on a daily basis or a weekly basis and
6 you have panic attacks, then it becomes like a
7 clinical formulation of anxiety. So I think it's not
8 just I'm worried, but I'm experiencing anxiety on a
9 more regular, frequent basis.

10 MR. SHIELDS: Objection.

11 Q. So do -- would you say that your feelings
12 of worry ever crossed into anxiety from a clinician's
13 standpoint?

14 MR. SHIELDS: Objection.

15 A. Is this before the incident in 2019?

16 Q. Yes.

17 A. No.

18 MR. SHIELDS: I actually have to go to the
19 bathroom.

20 A. I mean it's about -- about that -- my
21 system runs in that time.

22 MR. SHIELDS: Hold on. I have been
23 waiting for a minute.

24 MS. JONES: Do you need to use the
25 bathroom?



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2 MR. SHIELDS: I do.

3 THE WITNESS: I could use the bathroom.

4 MS. JONES: Do you need to use the
5 bathroom?

6 MR. SHIELDS: I need to use the bathroom.
7 I don't think anybody will be comfortable if I --

8 THE WITNESS: That's a private inquiry.

9 MS. JONES: Is that a "yes" or a "no"?

10 MR. SHIELDS: Let's go off the record.
11 I'm walking out.

12 THE WITNESS: I need to use the bathroom.

13 MR. SHIELDS: We're taking a break. I'll
14 be right back.

15 MS. JONES: We can go off the record. The
16 witness will use the restroom.

17 (The proceedings recessed at 2:54 p.m.)

18 (The proceedings reconvened at 3:11 p.m.;
19 appearances as before noted.)

20 CHARLES R. DEMPSEY III, resumes;

21 CONTINUING EXAMINATION BY MS. JONES:

22 Q. So I understood that -- I understand that
23 you sought therapy after the incident with Tesla.

24 MR. SHIELDS: Objection.

25 Q. Did you seek therapy after the incident



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2 with Tesla?

3 A. Yes.

4 Q. Why did you decide to seek therapy after
5 the incident with Tesla?

6 A. I believe it would help.

7 Q. Did someone suggest that you -- you seek
8 therapy?

9 A. I don't recall.

10 Q. Have you received therapy before?

11 A. No.

12 Q. What was the purpose of -- what was your
13 purpose in seeking therapy?

14 MR. SHIELDS: Objection.

15 A. I was hoping that therapy would help me
16 cope with loss and re-establish my -- help me feel
17 more like I did before.

18 Q. When did you start therapy after the
19 incident with Tesla?

20 A. It took me a little while. Finding a
21 doctor is more difficult than I thought it would be
22 and I ended up going into a -- walk-in hours. I don't
23 remember the name. Must have been -- must have been a
24 couple weeks after the incident.

25 Q. Did you -- so after that walk-in clinic,



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2 did you start seeing a clinician and start receiving
3 therapy on a regular basis?

4 A. Yes.

5 Q. In February of 2 -- did you consider the
6 therapy to be helpful?

7 MR. SHIELDS: Objection.

8 A. Somewhat.

9 Q. Can you explain how it was somewhat
10 helpful?

11 A. The first therapist I was working with had
12 shared with me some of the things she learned about
13 coping and I applied those into my daily life.

14 It was -- it was useful to use those
15 strategies when I was having like a -- like a stress
16 ball moment that I was experiencing at the time.

17 Q. Okay. Do you remember what any of those
18 strategies were?

19 A. There was the 3-2-1 Strategy. There was
20 the grounding techniques. There was breathing
21 strategies.

22 Q. What is the grounding technique?

23 A. Sort of just mentally grounding yourself
24 to the -- to the earth, to the moment, just being more
25 conscientious of your present place as opposed to



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2 being stuck in a negative headspace. Which is
3 upsetting.

4 Q. What does 3-2-1 mean?

5 A. Three, things you can see; two, things you
6 can hear; and one, things you can smell.

7 Q. What about re-framing negative thoughts?
8 What does that mean?

9 A. Like -- by changing what I'm thinking
10 about to my surroundings as opposed to flashbacks. By
11 actively thinking of a distraction.

12 Q. Was that -- was re-framing your negative
13 thoughts a helpful recommendation from the therapist?

14 A. It -- it was a technique that I tried to
15 use.

16 Q. Did you ever go on medication to address
17 your mental health after the incident with Tesla?

18 A. Yes.

19 Q. When did you first -- what was your first
20 prescription for mental health?

21 A. It -- it was generic Prozac. I don't
22 recall what the medical generic Prozac term is.

23 Q. That's fine.

24 Do you remember when you first started
25 taking the generic Prozac?



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2 A. Right when it was prescribed to me. What
3 month it was or day, I do not recall.

4 Q. Do you remember who prescribed the generic
5 Prozac to you?

6 A. The Dr. B.

7 Q. Can you spell that?

8 A. His name is long. I just always referred
9 to him as "Dr. B."

10 Q. At what clinic do you see Dr. B?

11 A. He was a member of the Rochester Regional
12 Health Group and I would see him at his office on
13 Carter Street.

14 Q. Did you find the generic Prozac helpful?

15 A. I did not.

16 Q. Why was it not helpful to you?

17 A. It destabilized my mood on a day-to-day
18 basis. When it left my system, it left me more upset
19 than I would have been if I was taking it.

20 Q. What do you mean "when it left" your
21 system?

22 MR. SHIELDS: Objection.

23 A. When -- I don't know if you have ever like
24 taken time-controlled medication, but when you take
25 it, you take it and then it enters into your body and



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2 then it dissolves in your stomach and esophagus and
3 enters your system. It sort of times out eventually
4 and just sort of fades out.

5 For example, when someone drinks alcohol,
6 they become intoxicated and then eventually, they're
7 not.

8 Q. Did you find that the generic Prozac faded
9 out, as you said, before it was time for you to take
10 another pill?

11 A. Yes.

12 Q. Did you tell your doctor about how it was
13 affecting you when it left your system?

14 A. Yes.

15 Q. When did you tell your doctor that?

16 A. At my -- at my next appointment.

17 Q. Did you notice any positive effects from
18 the generic Prozac?

19 A. It left me a little more dead-headed
20 during the day, which was better than being
21 distraught.

22 Q. What do you mean by "dead-headed"?

23 A. Um, loopy. Checked out.

24 Q. Do you remember how long you took the
25 Prozac before telling your doctor about how it was



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2 affecting you when it left your system?

3 A. I took it as was prescribed.

4 Q. Do you remember how many weeks you took it
5 as prescribed?

6 A. I do not recall.

7 Q. Okay. So I found this record. It's in --
8 marked as DEMPSEY 66. This is one of the first times
9 I see that you have the generic Prozac, which is
10 Fluoxetine, 15 milligrams. So this is March 7th of
11 2019. I actually wanted to ask you a question about
12 something that you said on the back.

13 Okay. You said -- well, here in the
14 session notes it indicates to me that the Fluoxetine
15 has helped you with no longer shaking and that
16 flashbacks are happening less often.

17 Do you remember if the Prozac was helping
18 with your shaking?

19 MR. SHIELDS: Objection.

20 A. It was leaving me more, as I said, loopy
21 and -- which would -- you know, I then spent less time
22 in flashbacks and having negative -- I was constantly
23 recalling what had happened. I was still living
24 there, so I was seeing the scene. Reliving it. And
25 being checked out led into less, you know, reaction.



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2 Q. Okay. That makes sense.

3 Here in this narrative you also report to
4 the clinician that you're still having trouble getting
5 out of the house. I don't read upside down very well.

6 "Client endures that he is continuing to
7 have trouble getting out of the house."

8 Do you remember specifically what that
9 looked like on a day-to-day basis?

10 A. Yes.

11 Q. Can you tell me what you meant by it was
12 hard getting out of the house?

13 A. I was afraid to open the door.

14 Q. Anything else?

15 A. I -- when -- when I had to leave the
16 house, I would just -- I would just flutter out -- I
17 would float. I would pace. I would go to the fridge
18 for no reason. I would -- I would pat my pockets 11
19 times. I just generally -- that is why I would never
20 go and talk to my friends. I was just afraid to go
21 anywhere.

22 And as far as like -- opening the door
23 itself was -- it was not something that I -- I recall
24 that being difficult for me for a while.

25 Q. Were you experiencing any other symptoms



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2 that made it difficult for you to leave the house
3 around this time in March 2019?

4 A. Symptoms that made it leave -- difficult
5 to leave the house as in like -- physical reactions
6 towards the action?

7 Q. Anything.

8 A. I remember being very stressed about it.
9 I remember getting in trouble with work because I
10 wasn't -- was showing up like late and -- and it was
11 just -- it wasn't that I wasn't ready to go. It was
12 just I wasn't going. I was making it to work, but I
13 wasn't making it before the clock started.

14 Q. How late were you showing up to work
15 around this time?

16 A. Frequently.

17 Q. What -- what time would you arrive at
18 work?

19 A. A few minutes after I was supposed to be
20 there. But, you know -- but with a corporation, you
21 know, not -- not early is late.

22 Q. Sure.

23 Are we talking like five minutes late or
24 30?

25 A. Like five.



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2 Q. And I want to ask you a question about one
3 that I did not print out, so I will show you this
4 screen. This is DEMPSEY page 71. This is the session
5 narrative from April 9th, 2019. I will turn this
6 screen around. It's talking about you watching a
7 body-worn camera video.

8 Do you remember which body-worn camera
9 video you were watching?

10 A. Yes.

11 Q. Which one was that?

12 A. The one mentioned earlier when it was
13 posted to YouTube and shared on to news media outlets
14 from Officer Algarin.

15 Q. Did you watch the video while it was
16 posted publicly? Or did you have prior access through
17 some other means?

18 MR. SHIELDS: Objection.

19 A. I watched it from a public post. When I
20 had requested -- when I made a FOIL request from the
21 City, they had denied me.

22 Q. Later on in this paragraph it says that
23 you were -- you noticed watching the video affected
24 your mood or emotions. Let me see what word she used.

25 Oh. "His symptoms." "Client agreed his



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2 symptoms increasing due to watching the video."

3 Do you remember how watching the video
4 affected you?

5 A. I went right back into a -- multiple-day
6 flashbacks and -- and the -- started shaking and
7 the -- the -- that shame feeling I was referring to
8 where I didn't -- just afraid of people and -- I
9 always thought that every cop that I saw was -- knew
10 about that and they held it against me. For some
11 reason, I -- you know, despite them just being people
12 doing their jobs, I -- I was -- I always felt like
13 they were looking at me like "Hey, you're that poor
14 boy."

15 Q. Were these the feelings that you
16 experienced in general, or after watching the video
17 again?

18 A. After watching the video, I -- I couldn't
19 get over the feeling that if I had continued to
20 approach that officer, that he would have opened fire
21 on me. That -- that -- that that would have put my
22 daughter at risk. That -- like --

23 Q. So watching the video --

24 A. Some people --

25 Q. -- made those feelings worse?



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2 MR. SHIELDS: Objection.

3 Can you not interrupt his answer?

4 Q. I'm trying to understand what you're
5 saying.

6 Did watching the video like reinforce
7 those feelings or brought them back up to the surface?

8 MR. SHIELDS: I will just object and ask
9 you don't interrupt him when he is answering, please.

10 A. Watching the video was worse than ripping
11 off a scab. Because it was like reopening the wound
12 and then with the ability to pause and rewind and go
13 through it and look at the minutia and think about,
14 you know, the unlimited possibilities if this had gone
15 that way or that had gone that way and what could I
16 have done. Why did this even deserve to happen?

17 Q. How many times did you re-watch the video
18 after it became public?

19 A. Too many.

20 Q. Can you give me some sort of context for
21 "too many"? Are we talking 2 or are we talking 500?

22 A. In between there.

23 Q. All right.

24 A. But, you know, as -- many. More than two.

25 Q. So after noticing that it increased your



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2 symptoms and talking about it with your therapist, did
3 you watch the BWC again prior to today and yesterday?

4 MR. SHIELDS: Objection.

5 A. We have reviewed the first few seconds of
6 it. I have seen the first few seconds of it.

7 Q. Prior to today and yesterday?

8 MR. SHIELDS: Objection.

9 A. Yes.

10 Q. When did you watch it again after talking
11 about it with your therapist in April of 2019?

12 A. Um, earlier I had talked about preparing
13 for Elliott and I had reviewed a video.

14 Q. Yes.

15 A. It was the first few seconds of that
16 video.

17 Q. I thought you prepared with your attorney
18 yesterday, but I guess that wasn't yesterday.

19 So aside from today's deposition and when
20 you prepared with your attorney, did you watch the
21 video at any other occasion after talking with your
22 therapist about it in April of 2019?

23 MR. SHIELDS: Objection.

24 A. I may have. I -- it -- I mean it became a
25 realization that it was not helping me, too, and I cut



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2 it, you know, off of my -- I cut it -- you know, I
3 avoided it entirely in order to protect my own
4 stability.

5 Q. So I'm a little unclear on your answer.
6 You say you may have watched it, but you avoided it
7 completely.

8 Do you know which one?

9 MR. SHIELDS: Objection.

10 A. What I'm saying is you're asking me after
11 I had had the session with my therapist, had I gone
12 back and seen it again? And what I'm saying is I -- I
13 don't recall chronologically if I had or hadn't, but
14 eventually I had just cut myself off from the social
15 media, the internet, like...

16 Q. Why did you choose to share the -- why did
17 you choose to share a video that -- excuse me.

18 Why did you choose to share an article
19 about the dog-shooting incident on your social media?

20 MR. SHIELDS: Objection.

21 A. I thought that it would help explain
22 myself to -- to some people that were unable to see
23 it.

24 Q. Did you have specific people in mind?

25 A. Not any one specific person in mind.



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2 Q. Okay. I'm going to show you another page.
3 This one is DEMPSEY 75. And this one has notes from a
4 session in April 24th, 2019. So I just wanted to ask
5 you a question about this. Here it says that "Client
6 endures easing off his new medication for a week."

7 Do you remember no longer taking the
8 Prozac in April of 2019?

9 A. I remember stopping taking it. I don't
10 remember the details of the date.

11 Q. Why did you stop taking the Prozac?

12 MR. SHIELDS: Objection.

13 A. I didn't like how it made me feel. I
14 didn't like it.

15 Q. How did you stop taking the Prozac?

16 MR. SHIELDS: Objection.

17 A. By not taking it.

18 Q. Did you just cut cold turkey? Did you
19 talk with your doctor? Did you tell him you were
20 going to stop taking it? Did you wean yourself off?
21 Or did you do anything else besides just stop taking
22 it?

23 MR. SHIELDS: Objection.

24 A. I started at first to take it less
25 frequently and then not at all.



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2 Q. Did you talk to your doctor prior to
3 decreasing the frequency of your dosage?

4 A. I spoke to my doctor at my doctor
5 appointments.

6 Q. Was that before or after you stopped
7 taking Prozac?

8 A. Both.

9 Q. Did you tell your doctor you were going to
10 stop taking the Prozac?

11 A. I told my doctor that I didn't like how it
12 was making me feel.

13 Q. Did you tell your doctor you were going to
14 stop taking the Prozac?

15 MR. SHIELDS: Objection.

16 A. I don't recall that conversation with my
17 doctor, but...

18 Q. Did you ask for a different medication
19 from your doctor?

20 A. I don't recall asking, but I do recall
21 being prescribed to a different medication.

22 Q. Did your doctor tell you that it might
23 take a while for Prozac to work effectively in your
24 system?

25 MR. SHIELDS: Objection.



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2 A. He may have.

3 Q. Do you remember if he did one way or
4 another?

5 A. This was so long ago, I don't remember the
6 conversation. It sounds like something that a medical
7 person should, you know, tell somebody.

8 Q. Sure. I guess I'm wondering if that was
9 part of your decision-making. You said, "Hey, I'm
10 going to give this two weeks" -- if that is the amount
11 of time it generally takes to see if it will work --
12 "and then after two weeks, if this isn't working, I'm
13 quitting"?

14 Or it was just "I don't like how this
15 feels. I'm going to stop"?

16 A. Yes. He did explain that it's not going
17 to be a one-day, one pill, you're better, happy-pill
18 solution.

19 Q. There is a word in one of your session
20 notes that I would like you to explain. So this is on
21 DEMPSEY 79. Progress notes from May 8th of 2019. I
22 will zoom in for you. It says here that you are
23 experiencing "hypervigilance."

24 Can you explain what "hypervigilance" was
25 and how it was manifesting in your life?



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2 MR. SHIELDS: Objection.

3 A. It's a big word. I'm trying to define it
4 for myself. Hypervigilance. "Vigilance" being --
5 like alertness? "Hyper" being a lot of it?

6 Q. "Hyper" is definitely a lot of it.

7 "Vigilance," sure. Alertness. Um,
8 careful.

9 A. I remember I was super paranoid after the
10 video was released of some sort of retribu --
11 harassment or retribution from the Rochester Police
12 Department.

13 Q. From --

14 A. I was nervous when I would see a police
15 car just drive down the road or an officer, you know,
16 in passing. Perhaps that's what it is referring to.

17 Q. For what did you think the police officers
18 were going to engage in retribution?

19 MR. SHIELDS: Objection.

20 A. I had initiated this case.

21 Q. When did you file the actual lawsuit?

22 MR. SHIELDS: Objection.

23 A. I don't recall the date. It's been many
24 years up to this point.

25 Q. Also in this notes -- sorry. It talks



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2 about journaling.

3 Do you remember the clinician suggesting
4 you engage in journaling?

5 A. Yes. I remember that being one of her
6 suggestions.

7 Q. Here it says that you reported that you
8 hadn't been journaling much, in this session note from
9 May 8, 2019.

10 Can you explain why you might not have
11 been journaling as much?

12 A. I didn't find the journaling that
13 effective.

14 Q. Did you find her other techniques or
15 suggestions to be more effective for you?

16 A. Like I said, the grounding techniques were
17 helpful. My answer should be "yes"?

18 Q. Yes.

19 After you stopped taking your medication
20 in April of 2019, do you remember resuming taking the
21 generic Prozac?

22 A. I remember going to the doctor and telling
23 him about how it wasn't like -- that I wasn't happy
24 with it. And I remember him increasing the
25 prescription. I don't know if that period was in



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2 between those visits. Or after.

3 Q. This is a very good question. So in the
4 progress notes for April 24th, 2019, if I scroll down,
5 your Fluoxetine, which is the generic Prozac, is at
6 20 milligrams. Then earlier in the month it was only
7 at 10.

8 So I'm assuming then at some point in
9 April is when it was increased from 10 to 20.
10 Milligrams is here on April 9th, 2019.

11 Does that ring a bell? Do you think you
12 would have gone to the doctor in April of 2019?

13 MR. SHIELDS: Objection.

14 A. That would explain the difference.

15 Q. Did you start taking the Prozac again
16 after the dose was increased?

17 A. Yes, I did.

18 Q. So then on -- so then on May 28th, 2019,
19 in this session note on page -- let me look at it --
20 DEMPSEY 83, it talked about being back off your
21 medication.

22 Do you remember stopping taking the
23 medication again in May?

24 MR. SHIELDS: Objection.

25 A. I don't recall specifically, but I know I



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2 did eventually.

3 Q. So just to get the timeline, you remember
4 starting medication at the 10 milligrams. Talking to
5 your doctor and him increasing it to 20. And then
6 stopping the -- no.

7 Did you stop it before or after it
8 increased to 20?

9 Did you stop taking it at 10 milligrams
10 and again at the 20 milligrams?

11 MR. SHIELDS: Objection.

12 A. I don't recall.

13 Q. But do you remember stopping taking the
14 Prozac after your doctor increased the dosage?

15 A. I mean I did eventually. I don't remember
16 doing it, but I did.

17 Q. Why did you eventually decide to stop
18 taking it?

19 MR. SHIELDS: Objection.

20 A. I felt it didn't have what I hoped were
21 the intended effects on me.

22 Q. Okay. Here the clinician recommends you
23 going to a men's trauma group.

24 Do you remember trying that out as the
25 practitioner suggested?



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2 A. The group that I had tried to join, it
3 didn't end up lining up.

4 Q. What do you mean by it didn't line up?

5 A. There wasn't room for me in the place I
6 went to. And...

7 Q. Can you explain what working extra hard at
8 your job meant?

9 A. Picking stuff up, putting it down real
10 fast. I probably was talking about just trying to
11 take pride in actually what I was doing.

12 What year was this?

13 Q. This is in May of 2019.

14 Were you compensating for being late? Or
15 were you --

16 A. I think I was just putting excess energy
17 towards it. I was using -- I felt good while I was
18 working because I was distracted to any negative
19 thoughts. I had less flashbacks at work than I did at
20 home.

21 Q. Do you know if your medication was ever
22 changed from the Prozac?

23 MR. SHIELDS: Objection.

24 A. We tried something else. I -- I would say
25 yes.



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2 Q. Do you know what the name of that
3 medication is?

4 A. I'm going to say no because the first
5 thing that comes to mind is Alexa and that's an Amazon
6 product and not a medication.

7 Q. Sure.

8 So I will show you again on my computer
9 what's been Bates-stamped as DEMPSEY 1363. So this is
10 another one of the progress notes from Ms. Woodworth.
11 This one is from June 18th of 2019. It lists your
12 medications as citalopram, C-I-T-A-L-O-P-R-A-M. And
13 then its brand name is Celexa, C-E-L-E-X-A, which is
14 really close to Alexa. So do you remember or --
15 scratch that.

16 Did you find the Celexa to be effective?

17 MR. SHIELDS: Objection.

18 A. Not entirely.

19 Q. Okay. How did the Celexa help you?

20 MR. SHIELDS: Objection.

21 A. Almost with like a placebo effect. To the
22 extent of I was taking this in order to feel better so
23 that it would make me feel better in my mind.

24 Q. Did it alleviate any of your symptoms?

25 A. I can't recall feeling relief this -- from



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2 it.

3 Q. Did you have any negative symptoms or
4 effects from the Celexa?

5 A. It also -- it destabilized my mood as the
6 Prozac did.

7 Q. What did that look like on a day-to-day
8 basis?

9 A. I would be upset for just nothing.
10 Just -- just -- I didn't wake up in a good mood.

11 Q. In the session notes for this same day,
12 June 18, 2019, Ms. Woodworth states that your primary
13 care physician wanted you to see a psychiatrist.

14 Do you -- I don't read upside-down very
15 well. There it is.

16 Do you remember or did your primary care
17 physician recommend that you see a psychiatrist?

18 A. That's what I thought I was doing with
19 Melissa at that time.

20 Q. So is your answer yes, your -- primary
21 care physician recommended --

22 A. I don't recall him directly making a
23 recommendation to see a psychiatrist.

24 Q. Okay.

25 A. But it doesn't surprise me if he had



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2 considering as he was prescribing me psychiatric
3 drugs.

4 Q. Did you see another medical professional
5 in addition to Melissa based on a recommendation of
6 your primary care provider?

7 A. Like did I find another doctor? No.

8 Q. And is the primary care provider we're
9 talking about the Dr. B that you referred to earlier?

10 A. Yes.

11 Q. Why didn't you see another medical
12 professional?

13 A. I thought that I was already seeking that
14 mental health assistance. I didn't understand that
15 there was -- I don't understand the difference.

16 Q. Did you find your sessions with Melissa to
17 be helpful at this point in time?

18 A. Yes.

19 Q. These session notes also mention a
20 physical altercation with your significant other.

21 Do you remember a physical altercation in
22 June of 2019?

23 A. I don't remember June of 2019 as far as a
24 chronological thing.

25 Q. Okay. I'm going to show you this page



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2 from the session notes on July 19th, 2019. This one
3 is on page DEMPSEY 1357. So this mentions that you
4 haven't seen your daughter in a month.

5 Can you tell me about that situation and
6 why you hadn't seen your daughter in a month as of
7 June -- excuse me -- July 2019?

8 MR. SHIELDS: Objection.

9 A. My daughter was living with her mother.

10 Q. Did you give permission for your daughter
11 to live with her mother at this point in time?

12 A. To whom?

13 MR. SHIELDS: Objection.

14 Q. To either your daughter or her mother.

15 MR. SHIELDS: Objection.

16 A. I don't recall doing so.

17 Q. Why didn't you go and collect your
18 daughter from her mother's house?

19 MR. SHIELDS: Objection.

20 A. I believe I tried to and she did not want
21 to come back to my house.

22 Q. "She," being your daughter?

23 A. Yes.

24 Q. Your daughter lived with her mother in
25 2020 from around March to September; is that right?



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2 MR. SHIELDS: Objection.

3 A. Yes.

4 Q. How long did your daughter live with her
5 mother this time around in summer of 2019?

6 A. I don't -- I don't recall specifically.

7 Q. Was it more than a month?

8 A. Yeah.

9 Q. Was it more than three months?

10 A. I don't recall.

11 Q. So as for DEMPSEY 1356, it indicates that
12 you're still prescribed Celexa 10 milligrams. But in
13 the session notes on 1357, it says that you're not
14 taking those medications right now.

15 How did you stop taking the Celexa? July
16 of 2019.

17 A. I had finished the bottle I had and I
18 wanted to move on in my life from that.

19 Q. I'm sorry.

20 Did you say you wanted to move on from
21 that?

22 A. Yeah. That's what I said.

23 Q. Meaning you wanted to try a new medication
24 or just no longer take the Celexa or something else
25 all together?



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2 MR. SHIELDS: Objection.

3 A. I wanted to experience life without the
4 Celexa again.

5 Q. Did you feel worse on the Celexa than you
6 did without it?

7 A. Situationally. Yes. I mean --
8 situationally, no.

9 Q. You said here you don't want to take a
10 daily medication.

11 Why didn't you want to take a daily
12 medication?

13 A. There was a book that I read in high
14 school where everyone in the community had to take a
15 daily shot and there was a boy who was called "The
16 Giver" and he learned to not take that shot and then
17 he was then able to see color. And that left an
18 impression on me.

19 Q. Did you believe that you could experience
20 life more vibrantly because -- if you were not taking
21 a medication?

22 A. I did believe that the medication was
23 taking the vibrancy from life. If that's -- if
24 "vibrancy" is a word.

25 Q. Is that why you were hesitant to permit



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2 your daughter to receive medication for her mental
3 health concerns?

4 A. Not entirely.

5 Q. Okay. Why didn't you want your daughter
6 to take medication for her mental health?

7 A. Eventually I was convinced that she should
8 take medication for mental health and I requested it,
9 she received it. But my initial opinion on the mental
10 health medication was -- for one, it would not work.
11 Didn't work for me.

12 And for two, LD was at such a vulnerable
13 place in her life, I was afraid of creating habitual
14 drug use.

15 Q. Did you consider that she could stop
16 taking the medication just as you had stopped taking
17 your medication?

18 A. With regards to LD as a minor, I was very
19 concerned as to the red flag warnings on all of the
20 medications about how it negatively affected minors
21 drastically when they came on and off the medication.

22 Q. Where did you hear about these warnings?

23 MR. SHIELDS: Objection.

24 A. They -- they come with the prescription
25 when you get it at the pharmacy.



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2 Q. Are you saying that you read the warning
3 labels for the prescriptions you were prescribed?

4 MR. SHIELDS: Objection.

5 A. I -- I did. I don't know if you're
6 inferring that -- like that was what I was doing in
7 reference to LD's medication. LD's medication I
8 researched online and the red flag warnings were the
9 first link.

10 Q. So before -- scratch that.

11 So when the doctors wanted to prescribe a
12 specific medication to your daughter, you would
13 research that medication online and find out how it
14 affected minors and then this would contribute to your
15 decision whether or not to permit to have the
16 medication or not?

17 MR. SHIELDS: Objection.

18 A. No. That's not quite how it played out.

19 Q. Okay. So can you explain how that played
20 out?

21 A. It played out over a series of several
22 meetings. And first time that I really had a doctor
23 tell me that LD should be on medication, she was
24 hospitalized. That was the first guy that really sat
25 me down and was like "Hey, this is what I think is



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2 best for your daughter."

3 And at that point, I had told him about my
4 opinion of the habitual happy pill becoming, you know,
5 problematic with the development of a kid. And, you
6 know, my personal experience. And, you know, that was
7 when -- it was after that that then I researched his
8 suggestions and saw that it was -- that there was
9 dangers for underdeveloped minds to take that
10 medication. So I mean it wasn't like I Googled --
11 searched the pill right after he told me what he was
12 planning on prescribing. It was research in
13 preparation for him telling me that this is what he
14 would prescribe.

15 Q. So what led you to eventually give
16 permission to have a prescription medication?

17 A. The grounding techniques and methods and
18 therapy sessions hadn't -- hadn't done enough. I
19 was -- I was concerned that not enough was being done.

20 Q. Had your daughter asked you prior to her
21 hospitalization to receive a medication for her mental
22 health?

23 A. Not that I recall.

24 Q. Why did you bring this lawsuit against the
25 City?



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2 A. The man was wrong for what he did.

3 Q. Any other reasons?

4 A. The City is responsible for arming him,
5 training him, setting him loose.

6 Q. Any other reasons that you brought this
7 lawsuit?

8 A. I would not wish this upon my worst of
9 enemies. This loss in -- I had a family member taken
10 from me. I don't -- I have no ill will against
11 anyone. And I wouldn't want -- I'm -- I'm born in
12 Rochester. I'm proud of Rochester. And I wouldn't
13 want an outsider to look at Rochester as a place where
14 it wasn't safe to have a family pet in your own yard.
15 I don't think that.

16 That's how the City of Rochester should
17 reflect itself, in the community. And I feel like
18 they should do -- I felt like the City -- City needed
19 to do more to protect its own community.

20 Q. So you were hoping the lawsuit would have
21 some sort of preventative or curative effect?

22 A. I'm hoping -- I hope that this lawsuit
23 will deter this from happening again.

24 Q. Any other reasons that you brought this
25 lawsuit against the City?



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2 A. This situation, those few seconds and
3 moments in the videos that you were showing me hangs
4 with me and my family every day. As I said, every day
5 when I drive to work and I go past the parking lot
6 that I sat at and cried at -- I just cried in my car
7 with no idea what I would be able to do to ever have
8 this officer own up to his actions.

9 I drive by there every single day and I
10 think about like how back then -- I don't have this
11 thought every day, but I do think about how -- like
12 back then in that moment I was so desperate to like --
13 I wanted -- I wanted him to know he was wrong. I
14 didn't think anybody was telling him that. I was
15 hurt.

16 Q. Were you censured or disciplined at work
17 because of how you were affected by the incident with
18 Tesla?

19 A. I had obtained, you know, disciplinary
20 letters about my attendance.

21 Q. Is there a route that you could take to
22 work that -- that would not pass by the Clinton police
23 office?

24 A. Indirect. An indirect route to work.

25 Q. Is there a way that you could drive to



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2 work to avoid driving by that specific parking lot you
3 mentioned?

4 A. Again, that would -- you're referring to
5 the same location.

6 Q. Oh. Is that the same location? Thank
7 you.

8 Have you considered getting a different
9 job?

10 MR. SHIELDS: Objection.

11 A. I've had my job since I was 19 years old.
12 I'm currently in my late 30s and I intend to retire
13 there.

14 Q. Have you ever considered getting a
15 different job?

16 MR. SHIELDS: Objection.

17 A. There was that Onlyfans bubble, but I
18 didn't think it was for me.

19 MR. SHIELDS: For the record, this was
20 obviously a joke.

21 A. I'm sorry. It -- I'm -- yes. For the
22 record, I was obviously joking. It is a defensive
23 means.

24 Q. Have you had any co-pays or medicine or
25 doctors visits that you attribute to the Tesla



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2 incident?

3 A. Yes.

4 Q. What co-pays are those?

5 A. For every appointment, the co-pay is \$10.
6 Co-pay for the medications was different. It was -- I
7 have a good -- I have Teamsters insurance so my
8 co-pays were lower than some other people's. Never
9 more than, you know, 5 to \$12 for a prescription.

10 Q. Was it the same co-pay for doctors visits
11 as for the therapy sessions?

12 A. Yes.

13 Q. Were you buying the medications even when
14 you weren't taking Prozac pills or the Celexa?

15 A. I'm confused.

16 Q. Did you ever get the pills from the
17 pharmacy and pay the \$5 co-pay and not take the pills?

18 A. No. There was the last bottle of Prozac
19 that I didn't finish, but I discarded that.

20 Q. How much out-of-pocket costs did you have
21 for your daughter's hospitalization at Strong?

22 A. I mean there was paying for -- there was
23 the \$100 co-pay for the emergency, the initial
24 emergency. There was the parking. There was -- I had
25 to provide her meals when she was first there at



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2 Strong because she didn't -- I thought that would help
3 her feel more comfortable than the hospital food.

4 There was...

5 Q. Did you have any out-of-pocket costs for
6 the duration of her hospitalization at Strong other
7 than parking when you visited her?

8 A. To the hospital -- like did they charge me
9 out-of-pocket co-pays? Is that what you're asking?

10 Q. Yes.

11 A. Um, I think -- I feel like I recall just
12 \$100 -- one co-pay payment from that incident -- from
13 that one incident.

14 Q. Okay. Was it \$100 a day for each day she
15 was in --

16 A. It was \$100 each emergency visit.

17 Q. Okay. Was there a co-pay when she was
18 hospitalized inside Strong for those two to three
19 months?

20 A. No.

21 Q. Was there any cost when she was
22 hospitalized in Western New York CPC?

23 A. I mean there was -- that was during the
24 COVID lockdown and I wasn't allowed to visit her for a
25 period of time.



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2 Q. Did you have any co-pays for her
3 hospitalization there?

4 A. I don't -- I don't recall.

5 Q. Would you be able to reconstruct that
6 through bills or insurance payments?

7 A. I'm sure if I went in and asked them for
8 the records, that perhaps it would demonstrate that.
9 But I -- I believe that -- no.

10 Q. How did the -- how did Tesla's death
11 affect your daughter?

12 MR. SHIELDS: Objection.

13 A. Psychologically? I mean --

14 Q. Sure.

15 How did Tesla's death affect your daughter
16 in the two to three weeks after the incident?

17 A. She refused to go back to that house at
18 first. Just refused. She -- she didn't want to be
19 home. She -- our relationship was never the same
20 again. You know, we were making -- we were cooking.
21 I said my memory just before that was standing at the
22 stove.

23 Over these years, we don't stand over the
24 stove together and -- it's not something -- she -- she
25 became kind of like I was referring to, like



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2 socially -- like she just didn't want to talk to
3 people. She didn't want to like -- she became very
4 cut off, from my perspective.

5 Q. How did the -- how did Tesla's death
6 affect your daughter in the months after the incident?

7 A. There was a period of a few months later
8 where some of her comments were -- were increasingly
9 just -- just concerning. She was -- she --

10 Q. Concerning how?

11 A. For example, if like -- I'm just creating
12 an example. If we were watching TV and a police
13 officer was approaching somebody's house, she would
14 say something along the lines, "Well, they better lock
15 that dog up."

16 Q. Did those comments ever stop?

17 A. I mean she would say things that were less
18 drastic in relation to the case, less frequently over
19 time, yeah.

20 Q. And why do you attribute the change in
21 y'all's' relationship to Tesla's death?

22 A. Up to that point, we were able to
23 communicate with each other a lot better about how we
24 felt. And during that time -- like during our
25 grieving process we both hid like -- hid that emotion



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2 from each other. We were both pretending to be strong
3 when we weren't. And it never -- it never came back
4 around. It never -- she never became comfortable
5 talking to me about her body and her emotions or --
6 like -- it never came back. That -- that tightness
7 that we had as a family just wasn't -- wasn't the
8 same. We got -- we got Savannah. We had another dog
9 in the home, but, you know, like I said earlier, it's
10 almost like a consolation. Yeah, you know, it's good
11 to have a dog here to deal with the burden, with a big
12 black heart.

13 Q. You said "we" hid the emotion.

14 How do you know she was hiding her
15 emotions and it wasn't just you? Did you talk to her
16 about that or --

17 A. Because there was a lack therefore of.
18 And it's perfectly natural for everyone to have
19 emotion. And the lack of sharing signified to me that
20 there was a lack of communication.

21 Q. Did you ever notice any changes to your
22 daughter's mood or personality in the months after the
23 incident with Tesla?

24 A. Yes.

25 MR. SHIELDS: Objection.



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2 Q. What changes did you see?

3 MR. SHIELDS: Objection.

4 A. She -- she had developed this anger
5 towards police in specific. But it then projected
6 onto teachers. Or anyone else that was -- you know,
7 teachers and other school staff that were in a
8 position to give her commands and she resented them.
9 I -- I -- I can't speak on somebody else's -- but that
10 was a change. She was some -- she cared less about
11 her bedroom. She -- her like developing even.

12 Q. Do you believe your daughter's
13 hospitalization in Strong in 2020 was linked to
14 Tesla's death?

15 A. I do. She was traumatized.

16 Q. So can you help me understand why those
17 two things are linked even though they're separated in
18 time by two years?

19 MR. SHIELDS: Objection.

20 A. When that happened, that hurt. It hurt
21 me. It hurt her. And it continued to hurt. Hurt
22 carried for weeks to months, to years. I sought help.

23 Q. How do you know that she was carrying hurt
24 for years if she wasn't communicating with you?

25 A. It wasn't several years. It wasn't until



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2 several years had passed until we had actually had an
3 honest discussion about what had happened and she told
4 me about how she tried to keep within her struggles.

5 Q. When did she tell you that?

6 A. I can't give you a date, but I would say a
7 few years ago. A few, like two. Maybe two years ago.
8 Maybe one. Or two.

9 Q. Did anything else contribute to your
10 daughter's hospitalization -- hospitalization in
11 Strong Hospital?

12 MR. SHIELDS: Objection.

13 A. She had told her therapist she had
14 suicidal intentions.

15 Q. Do you think your daughter's suicidality
16 was caused by or related to Tesla's death?

17 A. I think it was a factor in it. Yes. We
18 both kind of felt helpless and useless.

19 Q. Did you experience suicidal ideation --
20 never mind.

21 What other factors contributed to your
22 daughter's suicidality?

23 MR. SHIELDS: Objection.

24 A. You would have to ask her.

25 Q. Your daughter mentioned that she has



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2 sensitivity to loud noises.

3 Is there anything similar to that in your
4 life, like new things that have come about since
5 Tesla's death that negatively affect your life?

6 MR. SHIELDS: Objection.

7 A. For example, at -- in -- and in relation
8 to the loud noises, at my job, if somebody was to say
9 drop a pallet on the concrete floor, that loud noise
10 triggers me and I start to shake like I was earlier
11 when we were watching the videos. It's -- sometimes
12 when I'm having like -- sometimes -- sometimes it gets
13 so tense, in the depths of -- I play through that
14 so -- so often. It -- it's -- I thought it would be
15 easier.

16 Could you please re-ask me the question?

17 Q. Are you currently experiencing any new
18 things in your life that you believe are caused by
19 Tesla's death that negatively impact you? For
20 example, sensitivity to loud noises that you did not
21 have before.

22 A. There --

23 MR. SHIELDS: Objection.

24 A. I do shake when I'm scared. I didn't do
25 that before. That -- that happened post that. It is



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2 a totally new thing. Something I'm talking to my
3 therapist about. And, you know, something the doctor
4 was trying to address with the medication he gave me.
5 And it didn't go away. You know, it became less
6 triggered, but it never went away.

7 I'm -- I have -- like I said, I have
8 stress around the presence of the Rochester Police
9 Department. I have this weird blanket thought that
10 everyone has seen that video and that everyone has
11 some sort of judgment on me. And while -- I
12 haven't -- I haven't gone back to like really wanting
13 to be around people. It hasn't come back to me. I
14 was -- when I was in high school, I was the class
15 clown. I would bounce around and knew everybody in
16 town, you know?

17 And I moved to Kosciusko Street. I was
18 friendly with the neighbors. I helped the elderly.
19 And ever since then, I just sort of -- punching a
20 clock and take the trash out. Happy that I did that
21 much.

22 Q. Have any of your personal relationships
23 been impacted by the changes you've experienced since
24 Tesla's death?

25 MR. SHIELDS: Objection.



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2 A. Yeah. When -- when you stop talking to
3 people, they stop reaching out to you. So I have lost
4 friendships that I had.

5 Q. You said your hobby used to be playing
6 first-person shooter games.

7 Did you do that in a group or a club or
8 with some regularity before Tesla's death?

9 A. Yeah. I had an -- online friends that I
10 would group with.

11 Q. How often would you do that with your
12 online friends?

13 A. I would play the game like, you know, five
14 times a week. You know. Maybe more than once a day.
15 And sort of group together with your friends where
16 you're all playing at the same time. So when those
17 things lined up.

18 As far as like a number per month, I
19 really couldn't guess because it would be different
20 from month to month.

21 Q. Is there anything else that you haven't
22 mentioned already that you used to do that you no
23 longer can do because of Tesla's death?

24 A. Yeah.

25 Q. What is that?



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2 A. Enjoy my property on Kosciusko Street.

3 Q. Anything else?

4 A. Yeah.

5 Q. What else?

6 A. Enjoy the company of a Labrador. My uncle
7 has two Labradors and I couldn't even spend time -- I
8 went to visit him and I had to leave. It was just --
9 it -- it re -- it -- it upset -- it just upsets me.
10 It is not like I'm mad at that dog or mad at him. I'm
11 just -- it just makes me feel sad.

12 Q. Has your therapy been helpful in lessening
13 the impact of those triggers that bring back the
14 sadness?

15 MR. SHIELDS: Objection.

16 A. Those grounding techniques are what I go
17 to while I'm having like a -- like a stress-ball
18 feeling -- when I'm upset, I remember to breathe.

19 When I'm really upset, I remember to put
20 myself more in the moment. I -- I try to use those
21 techniques to help me.

22 MS. JONES: Okay. I need to take five
23 minutes and go get a different binder of information.
24 So we'll go off the record and I'll be back by 4:40,
25 which is actually 6 minutes.



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2 THE WITNESS: Take a few minutes to hit
3 your office. I will hit the head.

4 (The proceedings recessed at 4:34 p.m.)

5 (The proceedings reconvened at 4:41 p.m.;
6 appearances as before noted.)

7 CHARLES R. DEMPSEY III, resumes;

8 CONTINUING EXAMINATION BY MS. JONES:

9 Q. So I wanted to ask you some questions
10 about your session notes in July of 2019. It's on
11 DEMPSEY 1354.

12 So up at the top in this paragraph, it
13 talks about you're still struggling with certain
14 symptoms of fatigue and lack of appetite. And --
15 Anhedonia, A-N-H-E-D-O-N-I-A -- if I'm pronouncing
16 that correctly.

17 And on the second line you talk about
18 you're unsure what the cause of those symptoms are.

19 Do you -- do you remember discussing this
20 with this clinician?

21 A. I don't recall.

22 Q. Okay. Do you remember what interpersonal
23 stressors with your daughter being with her mother was
24 referring to?

25 A. I believe this is right after LD began to



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2 stay with her mother and I was stressed because of the
3 fact that LD had stayed with me and that was a change.
4 I didn't like change. I still don't like change.

5 MR. SHIELDS: Louder.

6 THE WITNESS: Sorry.

7 Q. Later on you said you don't have structure
8 in your life because your daughter was no longer
9 there.

10 Can you explain what type of structure was
11 missing when your daughter was gone?

12 A. So there is the habit that, you know,
13 forms when you get your kids off to school and they
14 come home from school and then there is the
15 after-school, you know, care. And those things being
16 gone left me free to my thoughts.

17 Q. This was in July, though.

18 Did your daughter attend summer school?

19 MR. SHIELDS: Objection.

20 A. I don't -- this is July 2019 where she
21 was -- no. She did not attend summer school.

22 Q. So what other type of structure did having
23 your daughter around provide other than just like --

24 A. I'm sorry for interrupting.

25 Q. Go ahead.



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2 A. It's -- I mean -- the same concept of just
3 having to be there, to provide, to focus your energy
4 to make sure that, you know, meals are provided.
5 There's not poop on anything. Parental care involves
6 attention and time.

7 Q. How did the lack of structure lead to you
8 feeling overwhelmed?

9 A. At this point I was still having a lot of
10 like -- struggle with being in my home.

11 Q. Okay. Did you find or did you try to find
12 structure in other ways?

13 A. There was a point I tried to take on
14 exercising.

15 Q. How long did you have the habit of
16 exercising?

17 A. It didn't last long. As I said, it was a
18 point. It wasn't a period.

19 Q. Were there other ways you tried to find
20 structure in your life when your daughter wasn't at
21 your home?

22 A. I tried to pick up an internet education.
23 Which means I just read a bunch of stuff online.

24 Q. Do you still struggle with fatigue, lack
25 of appetite and anhedonia?



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2 A. I don't know what anhedonia is.

3 Q. Generally like a lack of or inability to
4 feel joy and happiness and take delight in things.

5 A. To be honest, occasionally I do feel
6 anhedonia.

7 Q. How often would you say you feel that way?

8 A. Really, the more -- more people, the
9 louder it is, the more I feel withdrawn from enjoying
10 the situation. I think it's natural to feel fatigue
11 from time to time.

12 Q. Okay. I have some questions about a
13 different one. This one is from August 22nd of 2019.
14 And I just have some questions on some of the things
15 you said there. This one is Bates-stamped as 1348.

16 So toward the bottom, fourth line up, it
17 says "Client discussed moving to a new location."

18 Were you considering moving around this
19 time in August of 2019?

20 A. Yes.

21 Q. When did you end up moving?

22 A. Any thought you -- during -- during the
23 COVID stretch. That was -- that was the end of 2020.

24 Q. So -- so why did it take so long for you
25 to find a new place to live?



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2 MR. SHIELDS: Objection.

3 A. Because the housing market is not
4 beneficial to people who don't have -- it was very
5 difficult to purchase a home without a large down
6 payment and part-time job.

7 Q. So were you putting offers on houses and
8 just getting beat out or you couldn't find one you
9 could afford? How was that working more specifically?

10 MR. SHIELDS: Objection.

11 A. Any houses that I did put an offer on, I
12 was beat out on. And I had difficulty finding a place
13 that wasn't already sold by the time I inquired about
14 it.

15 Q. Did you consider increasing your hours at
16 work in order to become eligible to buy additional
17 properties?

18 A. Yes.

19 Q. Did you increase your hours at work?

20 A. Yes.

21 Q. When did you do that?

22 A. At the end of 2019.

23 Q. In this note it talks about your
24 medication ran out and you just didn't go back for
25 more.



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2 Is that referring to what we discussed
3 earlier when you said you just finished the bottle and
4 then stopped?

5 A. I believe.

6 Q. Okay. I'm going to hand you this one
7 which is 1545. Excuse me. DEMPSEY 1345, or the
8 session notes from September 13th of 2019. This
9 session note indicates a new job at work.

10 Is this when you moved to daytime hours?

11 MR. SHIELDS: Objection.

12 A. This was just before I did.

13 Q. So was there a gap between when you
14 accepted the job and when you started working the
15 daytime hours?

16 A. So I worked for the same company. And I
17 had taken a change from a part-time position to a
18 full-time driver's position. And I had to be trained
19 to -- for the driving position.

20 Q. How long was the training period for the
21 driving position?

22 A. It was a week long.

23 Q. This session narrative notes mentions your
24 daughter coming back to stay with you.

25 Do you remember this being a positive



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2 time, having your daughter back in your care?

3 MR. SHIELDS: Objection.

4 A. Yes.

5 Q. Do you -- did you notice any positive
6 changes in your daughter around this time?

7 A. Positive changes from?

8 Q. From before she went to live with her
9 mother.

10 MR. SHIELDS: Objection.

11 A. No.

12 Q. Do you -- do you remember if you were
13 still experiencing flashbacks around this time period
14 in September 2019?

15 A. Sure I was.

16 Q. Why do you say you're sure you were?

17 A. I continue to have flashbacks to this day.

18 Q. How often do you experience flashbacks
19 now?

20 A. More infrequently than before, but -- like
21 I said, this whole thing comes up every single day.
22 I -- I go back to my home there on Kosciusko Street
23 and that's never without experiencing flashbacks. And
24 like I said, sometimes it hits me on my commute to
25 work.



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2 Q. Are there other things that will cause you
3 to have flashbacks besides going to Kosciusko or
4 driving past the Clinton office?

5 A. Discussing it. "It" being the incident.
6 Um, Labradors just in general. Police officers, just
7 in general.

8 Q. Have you talked with the therapist about
9 finding ways to minimize or eliminate your reaction to
10 these type of triggers?

11 A. That's when I was given those grounding
12 techniques that we discussed earlier.

13 Q. So grounding techniques lessen the impact,
14 but they don't necessarily eliminate a certain object
15 or thing that triggers a certain emotional response?

16 A. Yes.

17 Q. Have you found a way to eliminate a
18 specific thing or object from triggering certain
19 emotions or memories?

20 A. I've stopped playing video games entirely,
21 so I'm no longer upset by that.

22 Q. Do you remember -- scratch that.

23 So you -- the clinician continues to list
24 the Celexa as a medication you're prescribed
25 throughout October of -- I want to say and November.



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2 Did you ever resume taking the Celexa
3 after you stopped taking it in -- whenever that was in
4 2019?

5 A. No.

6 Q. No?

7 A. No.

8 Q. Did you start taking a different
9 medication instead of the Celexa or Prozac?

10 A. No.

11 Q. Has a medical professional suggested that
12 maybe you should consider taking a medication to
13 address your symptoms?

14 A. No.

15 Q. Have you seen your primary care provider
16 since you last stopped taking the Celexa?

17 A. No. With the exception of when I caught
18 COVID. I didn't see Dr. B. It was another doctor.

19 Q. Why haven't you seen your primary care
20 provider since you stopped being -- taking the Celexa?

21 MR. SHIELDS: Objection.

22 A. Because I -- I didn't request another
23 appointment with him.

24 Q. Did your symptoms dissipate or end
25 altogether?



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2 A. Over time, but frequencies and the
3 intensities have dulled, but never like go away.

4 Q. Do you still -- do you currently
5 experience depressive symptoms that you attribute to
6 Tesla's death?

7 A. Yeah. There are certain times throughout
8 the year that --

9 Q. Go ahead.

10 A. -- that -- that lead me to shoe in. This
11 coming, you know -- it's the anniversary this month.
12 The coming of fall is just a reminder that it's
13 coming. And...

14 Q. What do you do in response to those
15 depressive symptoms?

16 A. Drink coffee and go to work the next day.
17 It's just...

18 Q. So do you consider those depression
19 symptoms to be debilitating at all?

20 A. You don't enjoy life and you just feel
21 blah. Yes.

22 Q. Have any of the techniques that you
23 mentioned earlier, the 3-2-1, the breathing, the
24 grounding -- do those address depression symptoms for
25 you?



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2 A. Those help me from getting too deep
3 into -- if -- if I sit on it for so long like I have
4 been today -- you know, today is going to affect me
5 for the next several days. You know. It's -- they
6 help momentarily. They help prevent the situation
7 from feeling worse or they're distracting.

8 Q. Have you adjusted to the fact that you
9 will continue to experience depressive symptoms in the
10 future?

11 MR. SHIELDS: Objection.

12 A. Honestly, I hope that one day I would grow
13 wise enough to -- to be more accepting of -- of it. I
14 hoped -- I hope not. I hope that -- to have those
15 golden years.

16 Q. Are you currently seeing a therapist?

17 A. No.

18 Q. Are there any other tools or techniques
19 that you're currently utilizing besides the breathing,
20 3-2-1 and grounding we discussed earlier that you use
21 to address your negative symptoms right now, including
22 flashback and tremors and depressive symptoms? I
23 guess you mentioned drinking coffee and going to work.

24 But are there any others?

25 A. To be honest and not to say something



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2 upsetting, but masturbation.

3 Q. Okay. How often do you do that to address
4 your symptoms?

5 MR. SHIELDS: Objection.

6 A. It just helps me cut out and go to sleep.
7 And -- I don't know. A few times a month.

8 Q. Anything else?

9 A. Sometimes I -- I spend time out in nature.
10 And try to -- try to really focus on one thing out,
11 you know, in the wild. Just like a single bee
12 crawling on a flower. You know, an ant crawling
13 across the ground.

14 Q. That sounds similar to the grounding you
15 mentioned earlier. Like focusing on the here and now.

16 A. I --

17 MR. SHIELDS: Objection. If that is a
18 question.

19 A. I agree.

20 Q. I know earlier you said that you didn't
21 find journaling particularly effective, but have you
22 since then tried to use journaling to address some of
23 your negative symptoms associated with Tesla's death?

24 A. Shortly, no.

25 Q. Do you know the frequency with which you



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2 were triggered by certain things to recall these
3 memories about Tesla's death, in late 2019?

4 MR. SHIELDS: Objection.

5 A. By "late," are you referring to like
6 December? Or are you referring to like October to
7 December?

8 Q. October to December.

9 A. So at the end of 2019, I began becoming a
10 driver for UPS and every single day I would have to
11 approach a stranger's property and announce myself.
12 And every single day I would be on properties that may
13 or may not have dogs or that do have dogs. And every
14 single day I would get, you know, that internal
15 reminder that -- that it happened. Every single day.

16 Q. Memory triggers are just coming up in
17 October and early November session notes a lot. And I
18 didn't understand why the same thing just kept coming
19 up. So that makes a lot of sense that you changed
20 your job and were now driving for UPS.

21 Is that -- is that one of the reasons that
22 you switched back to the night shift?

23 MR. SHIELDS: Objection.

24 A. I didn't think about it at the time, but
25 in reflection, it made sense.



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2 Q. Well, at the time, do you know why or --
3 at the time what were your main reasons for going back
4 to the night shift?

5 A. Not having to work in the rain. Being
6 available for LD. Being a driver for UPS keeps you on
7 the road for the majority of doctor hours and LD had
8 recurring doctor appointments.

9 Q. When you went to the night shift, did you
10 go back to the pre-loading, the -- moving packages to
11 the correct truck?

12 A. Yes. That's the night shift.

13 Q. In November 2019, you mentioned to the
14 practitioner you were excessively spending money.

15 Do you attribute that to Tesla's death?

16 A. It's hard to say. Because I was spending
17 money because it made me feel very small happy and I
18 felt very big sad because of Tesla's death.

19 Q. Do you still excessively spend money as a
20 way to make yourself feel better?

21 A. Sometimes I spend more on food than I
22 should because it makes me feel good.

23 Q. Do you know who released the body-worn
24 camera footage to the public?

25 MR. SHIELDS: Objection.



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2 A. The Democrat & Chronicle.

3 Q. It wasn't your attorney?

4 MR. SHIELDS: Objection.

5 A. I was aware of the Democrat & Chronicle
6 who had contacted me that they wanted the story about
7 the case.

8 Q. So that was a "no," you don't think your
9 attorney released it to the public?

10 MR. SHIELDS: Objection. Especially to
11 the extent it might concern any privileged
12 communications. And he already answered the question.

13 A. I was aware of the video through the
14 Democrat & Chronicle. They were -- that's where I got
15 it from. They're the ones that did it. I don't know
16 anything beyond that.

17 Q. Have you ever been suicidal or had
18 suicidal thoughts?

19 A. I've had suicidal thoughts throughout my
20 36 years of living. It's...

21 Q. Do you connect any of those suicidal
22 thoughts to Tesla's thoughts?

23 A. Some of them. Absolutely.

24 Q. Why did you have suicidal thoughts that
25 you feel were caused by Tesla's death?



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2 MR. SHIELDS: Objection.

3 A. It made me feel helpless and useless. And
4 I felt like I should have taken a bullet to defend my
5 dog's honor. I felt she deserved that and I didn't
6 give her that.

7 Q. How often were you having suicidal
8 ideations in the end of 2019?

9 A. I don't recall.

10 Q. In December 2019 and January of 2020, you
11 have been discussing interpersonal difficulties and
12 your daughter a lot per the session notes.

13 Did these interpersonal difficulties with
14 your partner and daughter and parenting overtake the
15 effect on your life that Tesla's death was having?

16 MR. SHIELDS: Objection.

17 Q. Like did those interpersonal difficulties
18 kind of have a -- yeah -- larger effect on your life
19 than Tesla's death at this point in time?

20 MR. SHIELDS: Objection.

21 A. I don't understand quite what you mean.

22 Q. Sure.

23 So in the beginning you're talking with
24 the clinician a lot about triggers and negative
25 memories from Tesla and flashbacks.



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2 And then it starts to shift to
3 interpersonal stressors and your daughter and your
4 girlfriend and parenting and -- "my daughter."

5 So did you ever reach a point in time when
6 the main stress or cause of any negativity or mental
7 health concerns was these interpersonal difficulties
8 as opposed to Tesla's death, which is what originally
9 led you to seek therapy?

10 MR. SHIELDS: Objection.

11 A. The therapist appointment was generally
12 only 40 to 50 minutes. I see her once a week. And
13 you know, it -- oftentimes it was initiated with what
14 was on my mind. What was my day-to-day like.

15 My dog wasn't getting shot and killed
16 every single day. And so, you know, you start
17 conversation that way and, you know -- just like we
18 have been here for hours. You don't have hours in
19 therapy. You got 40 minutes. So it didn't come back
20 to the dog, but the dog remains in the -- the flash --
21 the stress and the unnecessary like outside reminders
22 of it. Like those remained.

23 Q. Did you guide or determine the topics that
24 you spoke about with your therapist?

25 MR. SHIELDS: Objection.



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2 A. My therapist was more of a listener than
3 a...

4 Q. So did you determine what you talked about
5 with your therapist?

6 A. I felt like I did most of the discussion.
7 Dictate whatever I was about.

8 Q. Why did you stop seeking therapy in
9 mid-2020?

10 MR. SHIELDS: Objection.

11 A. Wasn't that during the COVID -- when they
12 had the masks and -- during mid-2020, I was working as
13 a driver for UPS, so my work hours overshadowed
14 Business Office hours. And I was -- I had lost touch
15 with the therapist and time just continued to pass.

16 It wasn't that I felt that I didn't need
17 therapy. It was just I wasn't taking the time to have
18 it. Going to therapy upset me because going to
19 therapy itself was a reminder why I needed to go to
20 therapy in the first place.

21 You know, I was born at the hospital which
22 is in the same -- which is attached to the building I
23 was going to therapy for. I felt like that was a
24 place that I was -- was comfortable for me at first.
25 And now, you know, after years of attending there,



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2 it's the opposite. It's -- as I referred to earlier,
3 it's like a scab. It -- you know, it just -- it's
4 part of the wound.

5 Q. Did your girlfriend encourage you to
6 prioritize therapy and go back to the therapist?

7 MR. SHIELDS: Objection.

8 A. At that time?

9 Q. Yes.

10 A. I don't recall.

11 Q. So in March of 2020, on this -- on these
12 notes from the therapist, it lists medications for
13 you. Zofran. The -- Ondansetron,
14 O-N-D-A-N-S-E-T-R-O-N. Yeah. Zofran.

15 Do you remember taking Zofran in March of
16 2020?

17 A. Do you mind if I go into it --

18 Q. Sure.

19 A. -- instead of just answering your
20 question? These documents you have been showing me
21 from Rochester Regional Health --

22 Q. Yes.

23 A. -- are generated by computers.

24 Q. Okay.

25 A. And basically there's like -- all of these



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2 things are -- are already there and the person who
3 fills out the form goes through empty spaces on the
4 form and enters in whatever information they want to
5 enter in.

6 Q. Okay.

7 A. And if this medication is -- was once
8 prescribed to me and not being -- has not been
9 unprescribed by a doctor or a doctor has not gone into
10 the MyCare portal and removed it, it will continue to
11 show on the MyCare portal even to this day.

12 But this medication was given to me for
13 nausea which I was experiencing with -- what now in
14 the future looking back, I believe I had the COVID-19
15 virus at that point in time.

16 MR. SHIELDS: Just for the record, that
17 was Bates number DEMPSEY 1306.

18 Q. So yes, you took Zofran? Just maybe not
19 at this time in March of 2020?

20 A. I believe that's when I was prescribed
21 Zofran.

22 Q. Okay.

23 A. For having nausea and diarrhea. And
24 fever. And what turned out to be a cold.

25 Q. I will take that back.



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2 Did you resume going to therapy after
3 stopping in mid-to late 2020?

4 A. I did try therapy again.

5 Q. Do you remember when that was?

6 A. I don't recall the date.

7 Q. Can you give an estimate?

8 A. Somewhere during the next year.

9 Q. Did you see the same therapist?

10 A. No.

11 Q. Do you remember -- well, why did you go
12 back to therapy again?

13 A. I was still experiencing the shakes, the
14 flashbacks, the stress balls. I -- I thought that
15 therapy would -- I mean I thought -- I thought maybe
16 it was something I should do.

17 Q. Did those symptoms increase which then led
18 to you returning to therapy or had they just not
19 ended?

20 A. That stuff hadn't gone away. I was --

21 Q. Did something happen to increase those
22 symptoms around the time that you decided to return to
23 therapy in August of 2021?

24 MR. SHIELDS: Objection.

25 A. I don't want to say "increased." I don't



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2 want to use that word.

3 Q. Was there any change in your symptoms that
4 motivated you to return to therapy in August of 2021?

5 A. I just wasn't happy. I was feeling
6 depressed.

7 Q. I'm going to hand you what's marked as --
8 or identified as DEMPSEY 2600. I want to talk about
9 some of the symptoms that you mentioned here.

10 So this is in August of 2021. In the
11 current -- current symptoms, duration history and
12 impairment, you describe feeling like a zombie. I
13 don't think we have talked about that before.

14 What do you mean by "feeling like a
15 zombie"?

16 MR. SHIELDS: Objection.

17 A. So a zombie is, you know, a mythological
18 creature that operates without -- I don't know -- I'm
19 sorry if I -- if I can restart.

20 Q. Go ahead.

21 A. I just felt like I was just going with the
22 flow in life and not making my own freewill living
23 choice. Just sort of as I referred to earlier,
24 deadhead.

25 Q. The therapist noted that you said, quote,



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2 "My symptoms are getting bad again."

3 Do you remember a time prior to August of
4 2021 where your symptoms had improved so they weren't
5 as severe or frequent?

6 A. I remember during the COVID shutdowns for
7 the schools and the stores, that I was super busy at
8 work. And that really became a dominating part of my
9 life.

10 And again, when I was less occupied with
11 work, I became more lost in thoughts. Which were
12 often kind of messed up. I don't want to sit here and
13 say everything in my life goes back to that moment,
14 but so many times in my mind that's where it goes --
15 that's where I go.

16 Q. Why didn't you command Tesla to stop when
17 she was running out the door and down the porch and
18 into the yard?

19 A. Because during those few seconds, I had
20 told the officer that she was fine and she would be
21 okay. I had spent that time using my English to speak
22 to a human.

23 Q. You said you're no longer seeking therapy
24 right now?

25 A. I'm no longer visiting therapists.



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2 Q. So after -- how long did you continue to
3 be in therapy after resuming in August of 2021?

4 A. Desiree became pregnant and that was kind
5 of, you know -- grown in her belly over the weeks and
6 months and then it was like, "Well, you know, you're
7 looking pretty big." As far as like "When is the baby
8 due?" Finally, the question came out and she -- you
9 know, she -- she stopped working. I stopped making
10 appointments with her and again, you know, as I stated
11 earlier before, time -- it's time now that needs to
12 pass.

13 Q. When did you stop having sessions with
14 Desiree?

15 A. I don't recall the last date. Um, I don't
16 know the last time I had a session with her.

17 Q. Have you considered seeing a new
18 therapist?

19 A. I have considered it.

20 Q. Have you called to see if Desiree came
21 back to work after her maternity leave?

22 A. I called once to try to make an
23 appointment to come up with somebody other than
24 Desiree, but the call -- I never finished the call.

25 Q. Why didn't you finish the call?



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2 A. I don't recall the instance, but there was
3 something happening immediately to my surroundings
4 that had to take my attention.

5 Q. Did you lose your job in March of '22?

6 A. Did I lose my job?

7 Q. Yes.

8 A. I still work for the same company that I
9 did. I was disciplined.

10 Q. Were you temporarily laid off for
11 anything?

12 A. You're talking March of last year?

13 Q. That is correct.

14 A. I missed time about two years ago for a
15 knee injury, but I don't know if that time is the time
16 you're referring to.

17 Q. Now -- no. I thought there was a time
18 where you lost your job at UPS and then were rehired.

19 Is that --

20 MR. SHIELDS: Objection.

21 Q. -- not true?

22 A. Again, I was never rehired.

23 Q. You mentioned you were disciplined at
24 work?

25 A. Yes. As a teamster, there is a -- there



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2 is a -- there is a written out in -- you know, way of
3 passive discipline. You know, it starts with a
4 warning. With a letter. A suspension. A
5 multiple-day suspension.

6 I had gone through that process.

7 Q. Was this discipline related to Tesla's
8 death?

9 A. I was still struggling to leave my home.

10 Q. So what discipline did you receive through
11 that written process?

12 A. A lot of write-ups.

13 Q. Earlier you mentioned attendance issues.

14 Were there any other reasons you were
15 disciplined at UPS?

16 A. That is what I was disciplined for. Not
17 getting to the clock.

18 Q. So what levels of discipline did you
19 receive?

20 A. The highest is an Article 7 discharge,
21 which is a working discharge. Which means that they
22 had sent me a certified letter that said they had the
23 right to -- or reason to discharge me from their
24 employment. Of which I was continuing to do.

25 So I received a letter that said they had



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2 reason to fire me but was not fired.

3 Does that make sense?

4 Q. Yes.

5 Had you previously been suspended prior to
6 receiving that Article 7 letter?

7 A. Yes. That's a part of the process that's
8 in the Teamsters contract.

9 Q. How many days were you suspended from work
10 for attendance issues?

11 A. There was a one-day suspension, a
12 three-day suspension and a five-day suspension. I
13 worked through all of them. They did not actually
14 suspend me. It's a paperwork process.

15 Q. So did they tell you you were suspended or
16 have it in abeyance or something? How did they
17 suspend you but not actually suspend you?

18 A. They told me I was suspended and then told
19 me to get back to work and to show up the next day.
20 This is Corporate America for you.

21 Q. Were you paid for the day you were working
22 when you were technically suspended?

23 A. That's correct.

24 Q. When did the one-day suspension occur?

25 A. There -- there never was like an



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2 assigned -- like "You're going to be suspended this
3 day."

4 It was "You're being served with a one-day
5 suspension letter. This is official. Here is your
6 Union Rep." You know. "Here is the office."
7 Everything is --

8 Q. When were you served that one-day
9 suspension letter?

10 A. I -- I can't recall a date.

11 Q. Can you tell me what year?

12 A. I guess that would be '20 -- we're talking
13 '20 -- I hadn't been served that more than once.

14 Q. Do you feel like your job is currently in
15 jeopardy?

16 MR. SHIELDS: Objection.

17 A. As we stand now?

18 Q. Yes. Like today.

19 A. I am currently still on an Article 7
20 discharge and my company has reason to fire me if --

21 Q. Can they retract an Article 7 discharge
22 letter?

23 A. The way it is in the contract, they -- a
24 letter like that will time out in -- and your answer
25 should have just been yes. The Union can dispute it



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2 and such.

3 Q. But the letter can also time out after a
4 certain period of time?

5 A. That's correct.

6 Q. What is that length of time?

7 A. On the last contract, from what -- I
8 believe it to be nine months.

9 THE WITNESS: Would it be appropriate for
10 me to have another cigarette break soon? Not saying
11 right now, but -- so you could expect that.

12 MS. JONES: Yeah. Give me a few more
13 seconds.

14 Q. Did you know prior to yesterday's
15 deposition Uncle Mark mistreated LD in the way she
16 described?

17 MR. SHIELDS: Objection.

18 A. I had taken LD to the Civil Service
19 building and requested action be taken against Mark
20 and was told by the Judge -- whose name I can't
21 recall -- that there -- that he didn't feel a crime
22 had been committed and that I should take up my issues
23 with Family Court.

24 Q. Did you address Mark's mistreatment of
25 your daughter with Felicia, your daughter's mother?



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2 A. Yes.

3 Q. How many -- well, would you agree with the
4 Western New York CPC's description of LD's homelife as
5 "chaotic"?

6 MR. SHIELDS: Objection.

7 A. No.

8 Q. Why not?

9 A. I don't consider my home to be chaotic.

10 Q. What about the time your daughter was
11 living with her mother?

12 A. I wasn't there. I can't speak to that.

13 Q. Did your daughter tell you about what
14 Uncle Mark did to her?

15 MR. SHIELDS: Objection.

16 A. You asked me that. I answered you.

17 Q. If you took action on what your daughter
18 told you about Uncle Mark, why didn't you not believe
19 other things that she reported about her mother's
20 home?

21 A. I'm sorry?

22 Q. Well, it seems like you believed your
23 daughter when she told you about Uncle Mark's
24 mistreatment of her.

25 Did you not believe what your daughter



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2 said about other things she experienced at her
3 mother's house?

4 MR. SHIELDS: Objection.

5 A. I -- I -- I believe my daughter. I don't
6 know what you're trying to -- I -- I don't know what
7 two pins you're putting together.

8 Q. Do you think your daughter is currently
9 affected by Tesla's death?

10 A. Yes.

11 Q. How so?

12 A. She's still triggered and traumatized by
13 police, Black Labs. She -- she wants nothing to do
14 with my house on Kosciusko Street.

15 She don't even really want to live with me
16 anymore, but she's -- she doesn't want to be there
17 over on Kosciusko Street because she doesn't want to
18 have those flashbacks and memories.

19 So I'm assuming that she also deals with
20 the stress, you know, of worrying about that in your
21 own head. We talk about it. You know, she doesn't --
22 her places and things we did with the dog that remind
23 her of the dog and make her feel sad.

24 Q. Is there anything else that you would like
25 to tell me about the incident or Tesla's death or how



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2 it's affected you that you haven't shared with me
3 already?

4 A. Again, I thought that you were trying to
5 wrap this up, but if you would like, I could tell you
6 about how when I drive my car and I look up in the
7 driver's rearview mirror, sometimes I see the ghost of
8 that dog looking back at me in the mirror. Because
9 that was the last time I made real, good, solid eye
10 contact with Tesla, was in my driver's mirror -- the
11 rearview mirror while she was in the back of the car
12 driving to the Animal Hospital. And I think -- she is
13 not there now, but sometimes when I look up, I
14 remember her looking back.

15 Q. Do you have the same car that you drove
16 Tesla --

17 A. I still own that vehicle.

18 Q. Do you consider getting a different car?

19 A. I have.

20 Q. Do you see Tesla in the rearview mirror
21 when you're driving any car?

22 A. I didn't see her in the rearview mirror of
23 the UPS truck when I was driving it. Right after the
24 loss, I would feel like the shadow presence of my dog
25 next to me. The therapist told me that that was



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2 common for people dealing with the loss of pets.

3 And -- it's just for no reason out of the
4 blue. It's just like poof, "Here I'm not." And it's
5 just like this unfriendly reminder.

6 I took time off of work so I could speak
7 to you today. It's time that I could have taken to
8 enjoy this great State of New York, you know?

9 Q. Are you working the day shift right now?

10 A. No. But we started here at 9 a.m. at
11 which time I -- I'm at work.

12 Q. Anything else you would like to share?

13 A. Yes.

14 Q. Go ahead.

15 A. There is more.

16 When -- when we got KitKat, the cat, in my
17 home -- when she was just a kitten and we brought her
18 home, the big deal was how is Tesla going to react to
19 this? And it was adorable. Watching the little
20 kitten play with the big, old, black dog, white cat.
21 They were good friends.

22 They eventually became really close with
23 each other over the years and they would sleep
24 together. Cat would lick her face. She would just
25 lay on her back with her mouth open and just like let



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2 the cat crawl across her.

3 And I -- I referred to earlier with, you
4 know, Savannah, the dog I have now. Like her
5 relationship with Savannah is not like it was like
6 with Tesla. And when I'm like with the cat and I'm
7 sad and like the cat sometimes knows that and -- you
8 know, animals have that sort of heart vibe instinct I
9 would guess I would describe it as -- you know,
10 sometimes -- sometimes when I'm with the cat, I just
11 remember that the cat remembers Tesla.

12 And it's you know -- you know, you quoted
13 me earlier saying Tesla was my best friend. I -- I
14 have another dog, but it -- but that cat has been
15 through -- through it with me now. It's -- I have a
16 deeper bond with my cat than I do with my dog. I
17 don't know if that makes me a cat person or not.

18 There's -- there's so many like from --
19 day-to-day reminders that upset me. There is so many
20 like places that I won't go to avoid having those
21 negative emotional feeds.

22 For example, the -- the Rochester City Dog
23 Park that I referred to earlier on Cobbs Hill. I stay
24 away from that area. I don't even like driving by it
25 on the 490. Because it's in my -- my daughter feels



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2 the same way. We have talked about it on the highway.

3 Like, "Oh, yeah. I remember" -- just you
4 remember -- and then sad, sad, sad. Just kind --

5 Q. You don't take Savannah to the dog park?

6 A. Not to that doing park, no.

7 Q. Anything else you would like to share
8 about how Tesla's death has affected you or your
9 family?

10 A. I stopped inviting people to my home after
11 that.

12 Q. You mentioned that you didn't have people
13 at the fire pit anymore.

14 A. Yeah. Which, you know -- I stopped
15 engaging with people who were close to me at that
16 time, just entirely. And -- you know, because of
17 that, those relationships drift on and, you know,
18 apart. And I don't have those relationships that I
19 had before anymore.

20 I really prided myself in helping my
21 elderly neighbors back then. And I just -- I watched
22 them die over the years and -- and I could have spent
23 more time helping them with their last years if I
24 hadn't been so secluded in my -- just...

25 I have a really hard time getting rid of



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2 things from back then. With example, my car.

3 Q. Hmm.

4 A. I have gotten a new vehicle, as you asked.
5 Yes, I have fewer flashbacks of the dog in the mirror
6 in that vehicle.

7 Q. In the new vehicle?

8 A. In the new vehicle. But I can't bring
9 myself to get rid of the old vehicle because it's one
10 of the last pieces of Tesla I have left.

11 I'm still afraid to go into the yard
12 without inspecting it. I -- I'm afraid to step
13 outside of my house without making sure that there is
14 not somebody out there that might kill me. That's not
15 a comfortable feeling to have. It's not.

16 I don't even -- I found myself afterwards
17 that I would -- I -- I found myself drawn deeply to
18 like -- for example, like a Facebook friend that
19 shared a picture of them with their dog. I -- I found
20 myself so happy for them that they had that in their
21 life. And I -- I get emotional sometimes when I
22 don't -- I don't get to -- when I'm left alone in
23 these thoughts of, you know, I should have taken that
24 bullet and, you know, what could -- how could I
25 have -- could I have carried her into the home away



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2 from them? Could -- could I -- what could I have done
3 differently?

4 Did I have to have that cigarette? I
5 smoke cigarettes. I smoke a lot of cigarettes in a
6 year. Every time I light a cigarette -- not every
7 single time I light a cigarette, but frequently, while
8 I'm smoking a cigarette, I think about should I have
9 had that cigarette?

10 You know, I was cooking little -- you
11 know, you ever have a cocktail wiener or, you know,
12 like a smoked sausage, small smoked sausage? We were
13 cooking those. I have not purchased those. I avoid
14 that entire section in the Wegmans grocery with the
15 baloney and the ham. That -- I avoid that entire
16 section of the grocery store.

17 Sometimes I stare at it. When I end up
18 there, I just stare at it. Why?

19 I -- I have been affected by loss of Tesla
20 every single day and I can continue to name these
21 things throughout the evening if that is what you
22 would like. But it exceeds what I have said.

23 MS. JONES: I don't have any more
24 questions.

25 MR. SHIELDS: I just have a few.



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2 EXAMINATION BY MR. SHIELDS:

3 Q. Before the officer entered your yard, did
4 you give him permission to enter your yard?

5 A. No.

6 Q. If the officer had walked to your front
7 door, knocked and explained the situation that they
8 wanted to enter your yard to search in your yard,
9 would you have given the officer permission?

10 A. If he had knocked on my door and garnered
11 my attention and asked for permission to enter, would
12 I have told him yes?

13 Q. Yes.

14 A. Yes.

15 Q. Before the officer entered your yard, did
16 he make any kind of announcement or warn you that he
17 was going to enter your yard before he entered your
18 yard?

19 A. No. I was unaware of his presence.

20 Q. Earlier, Ms. Jones showed you the
21 body-camera video and the moment when the officer had
22 pointed his gun at you and then he put it down by his
23 side.

24 In the video, you weren't able to actually
25 see the officer holster his gun; correct?



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2 MS. JONES: Objection.

3 A. Correct.

4 Q. So just by watching the video, there is no
5 way to tell when the officer actually holstered his
6 gun; correct?

7 MS. JONES: Objection.

8 A. Yes.

9 Q. From your memory of the incident, do you
10 remember exactly when the officer holstered his gun?

11 A. By "exactly," do you mean like
12 order-of-event exactly?

13 Q. Like --

14 A. Sorry.

15 Q. So in the video what you see is the
16 officer pointing his gun at you and then putting it
17 down by his side.

18 Could the officer have held the gun at his
19 side for some portion of time before he re-holstered
20 it?

21 MS. JONES: Objection.

22 A. Time was moving very slowly at that point.
23 He could have.

24 Q. Okay. Sounds like you don't remember
25 exactly when he holstered the gun, if it was



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2 immediately after he put it down by his side, if he
3 held it there for a while before holstering his gun or
4 not?

5 MS. JONES: Objection.

6 A. Right. I can't recall.

7 Q. Okay. Ms. Jones asked you a series of
8 questions about why you didn't bring Tesla to the
9 Animal Hospital sooner.

10 One of those reasons was because the
11 officers told you that Animal Control was coming to
12 your home, correct?

13 MS. JONES: Objection.

14 A. Yes.

15 Q. And was another reason because you didn't
16 feel you were free to leave when you were surrounded
17 by the officers?

18 MS. JONES: Objection.

19 A. Yes.

20 Q. And Ms. Jones asked you why you didn't go
21 inside to see LD.

22 Was -- would LD have seen your shirt
23 covered in blood if you had gone inside at that point?

24 MS. JONES: Objection.

25 A. Yes.



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2 Q. Is another reason that you didn't leave
3 Tesla to go inside and see LD because you were afraid
4 that Tesla would bleed out and die?

5 MS. JONES: Objection.

6 A. I was afraid of blood coming out of her
7 and causing her death, yes.

8 Q. Did you stop taking the Prozac because the
9 side effects were worse than the benefits or something
10 else?

11 A. Yes. I -- I -- I felt like it was more of
12 a negative than a positive.

13 Q. Was that the same with the Celexa?

14 A. Yeah. I mean I -- I stopped the Celexa
15 because I ran out of Celexa and I was hoping that I
16 could go on without it.

17 Q. Your deposition was previously scheduled
18 about a year ago, correct?

19 A. Yes.

20 Q. Did you watch the -- the video at that
21 time in preparation for the previously scheduled
22 deposition?

23 A. I believe I did.

24 Q. How did that make you feel?

25 A. Angry, confused, upset. I -- I felt



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2 like -- in this moment right now I'm reflecting on the
3 video and I feel anger.

4 Reflecting on it made me feel really sad
5 about myself.

6 Q. When you say it makes you feel sad about
7 yourself, is one of the reasons because of how
8 emotional you are in the video?

9 MS. JONES: Objection.

10 A. Yeah. I was -- it made me feel like I
11 wasn't who my ego thinks I was. Not the man I thought
12 I was, I guess. You know, I gave -- I gave my best
13 "Hey" voice and they treated me like some kid.

14 Q. Were you raised to view a man's role as
15 being strong and stoic and not expressing emotion?

16 MS. JONES: Objection.

17 A. My father was a marine and he raised me.
18 I was born a few years after he, you know, had left
19 the Marines. So he had used I lot of what he learned
20 in the Marines to raise me on. And being strong,
21 protective. That just was -- that was an example that
22 I had.

23 Q. In June 2019, there was a custody order
24 granting you and Felicia, your daughter's mother,
25 joint custody; correct?



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2 MS. JONES: Objection.

3 A. Yes.

4 Q. So it's not like you had to give Felicia
5 permission to see LD, correct?

6 MS. JONES: Objection.

7 A. Yes.

8 Q. Earlier one of the things that you said in
9 response to one of Ms. Jones' questions about your
10 daughter was that it wasn't until several years had
11 passed that you had an honest discussion about what
12 happened with LD and that she told you that she tried
13 to -- I think the words you used were "keep within her
14 struggles."

15 So my question is do you mean that she
16 held in her emotions about the incident?

17 MS. JONES: Objection.

18 A. We withdrew the detail -- we held back the
19 details of the moment and the after moment and how we
20 felt. I mean yeah. She held in her emotions. She
21 held in -- we didn't talk about what we felt because
22 we both felt broken-hearted. It was hard to share
23 that without coming right to the surface and I'm
24 choked up now referring to it. I mean -- staring in
25 the eyes of my daughter and feeling the same way.



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2 It's even harder.

3 Q. And another thing that was said in
4 response to Ms. Jones' questions is that you --
5 something like you felt bad about not being able to
6 help LD process her feelings about the incident
7 because you were dealing with your own feelings about
8 the incident.

9 Is that accurate?

10 A. Yes.

11 Q. And do you think that is something that
12 affected your relationship with LD?

13 A. I do. I do.

14 Q. And Ms. Jones had asked you why you had
15 gone to see your primary care physician for a period
16 of time, I believe, between maybe after you were
17 prescribed the Celexa to present or something like
18 that.

19 Is the reason you didn't go see your PCP
20 in that time period because you simply weren't sick?
21 You didn't have a reason to go see your PCP?

22 MS. JONES: Objection.

23 A. Yeah. I said before that I had gone in
24 because I had a really bad cold and I didn't go spend
25 time with my PCP because -- when I was a kid, you



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2 called a doctor when you break an arm. I did that
3 only once.

4 Q. So you wouldn't just like go regularly and
5 have check-ins with your doctor if you weren't sick or
6 if you didn't have an injury?

7 A. Yes. Yes, I would not.

8 Q. When you became a driver with UPS, did you
9 get training on interacting with dogs?

10 A. I did.

11 Q. When you were a driver with UPS, did you
12 have any weapons or anything else that you would carry
13 to help protect you if you had to interact with a dog
14 on someone's property?

15 A. The UPS uniform includes nothing but, you
16 know, shirt, pants, socks if you're wearing shorts,
17 coat and the -- the UPS diad, which is like -- the new
18 ones are nicer and lighter than the old ones, but --
19 the UPS diad is about --

20 MS. JONES: Like the handheld thing?
21 Handheld thing?

22 A. Yeah. That you would sign for an
23 electronic thing. You would -- that was the only
24 thing that would -- that you would have other than a
25 package that you're carrying.



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2 Q. How long was the training about
3 interactions with dogs?

4 A. They -- I had my week-long training down
5 in Worcester, Massachusetts and -- at a place they
6 call Browntown, which is Integrad, where they train a
7 lot of UPS employees and they had addressed it
8 multiple days. But there was a certain point where it
9 was an open discussion that -- that had gone on for a
10 significant portion of an hour. I'm not saying an
11 hour, but -- but I remember us -- I mean I remember it
12 bouncing around for a little bit of time.

13 Q. In training about how to interact with
14 dogs, that's because necessarily that happens when you
15 are delivering packages onto somebody's property?

16 A. Yeah. That's correct. I mean they even
17 had a fake dog in their little -- they have like a
18 fake town that you go out and you deliver to and you
19 drive the truck like 12 feet down the street and park
20 and get out and go and deliver packages. They had one
21 house they kept just specifically for there to be a
22 dog behind the door. While you weren't paying
23 attention, somebody would go behind that door and try
24 to jump you and catch you off guard. If you weren't
25 paying attention -- if you weren't doing what they had



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2 trained you to do, they would catch you off guard.

3 Q. And did they train you on how to avoid
4 being attacked by dogs when you're delivering
5 packages?

6 A. Yes.

7 MS. JONES: Objection.

8 A. Yes. That was the intention of training
9 us with dogs, because they didn't want their employees
10 to be injured on the job.

11 Q. So there was about a one-hour on one day
12 and then multiple other days when there was training
13 about interactions with dogs?

14 MS. JONES: Objection.

15 A. Yes. There was also like online, um,
16 training that we did. Outside of the classroom. We
17 did computer training and -- and there was also a
18 section in one of the training programs that
19 addressed, you know, how to interact in identifying a
20 home with a dog. Or a yard with a dog.

21 Q. So you were taught when you were
22 approaching any home that you were delivering a
23 package to to be cognizant and to look for signs of
24 whether or not there was a dog that resided at the
25 property?



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2 A. Yes.

3 Q. And what types of precautions were you
4 thought to take if you saw signs or thought that there
5 might be a dog that resided at the property?

6 A. Just walking through it, step by step.
7 You know, they would say -- beep the horn before you
8 get out of the seat to make a noise. Announce
9 yourself. As you're approaching the yard, to observe
10 the yard for telltale signs that there -- being a dog
11 there. And look for like a dog house or a sign that
12 said "Beware of Dog" or a beaten trail along a fence
13 line. Or toys in the yard. Or a bowl. Or -- there
14 are many things that could signal there's a dog in the
15 yard like there being a dog in the yard.

16 And they taught us to announce ourselves
17 as we approach. Again, making a noise as we are
18 approaching is another way to -- of aware -- not only
19 inform the customer, but also the dog that you're
20 around.

21 If we were to cross a fence in order to
22 reach the home, that we -- shake the fence, tap on the
23 fence, kick the fence. Make some more noise along the
24 fence line so again if there is a dog there, they're
25 aware and if -- if we were to ever feel unsafe about



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2 the situation because there was a dog, you know, they
3 taught us to write an info notice and not deliver a
4 package. That -- you know, try again the next day.

5 Q. Were you taught how to deal with if the
6 dog actually ran at you or attacked you?

7 A. Yes. That was part of the open
8 discussion. And, you know, it was -- the -- the guy
9 who was, you know, discussing to us what to do. He
10 was like if a dog -- if you end up -- find yourself in
11 a situation after taking all of the steps to see and
12 prevent it and now here you're in the moment, what you
13 should do is try and find something to separate you
14 from the dog if you can't get immediately back over
15 the fence -- the barrier, the fence. Use the package.
16 Or use the diad to just put something in between you
17 and the dog.

18 Q. Create space between you and the dog, some
19 kind of physical barrier?

20 A. Right. And to retreat. Call for the
21 owner.

22 I ended up in a situation like that one
23 day where I was in somebody's -- I was on somebody's
24 porch, knocking on their door and, you know, I knew
25 they had a dog. And I actually had pet this dog



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before, but he scared me. He came coming around the corner and, you know, it -- my reaction was to do what I was just saying. I created space. I set that package down right in between me and him and I proceeded to exit immediately. And called out for the owner as I was doing so. They had to come to the door. By the time, I was already outside the fence but before I got back to my truck and the dog was paying attention to the box and the owners. I -- I don't know why I just flashed on that. That dog got me, though. I was -- it -- that set in my memory. But I never would have done anything to hurt him. You know, I just retreated.

Q. Was going through the dog training with UPS triggering for you?

A. It -- it was because I had like developed such a -- I had felt like I was such a dog person at that time. And for him to say that, you know, you would prefer me to -- you know, hit a dog with a package -- or, you know -- to just -- it was triggering for me. I remember feeling shaky and like palm-sweaty during the group discussion.

I remember even speaking up to make suggestions about, you know, alerting dogs that --



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2 or -- just like figuring out if there is a dog there.
3 You know, other ways to make noise other than honking
4 the horn and verbally tapping the diad or something.

5 Q. During group discussion did you share
6 about the incident with Tesla?

7 A. No. I didn't want to put that on those
8 people. Anybody I ever talked to about Tesla is
9 immediately -- changes their demeanor to being sad and
10 upset and like -- they like pity me. Like -- like
11 they're -- they say that they're sorry to me like they
12 did something. "I'm sorry."

13 I don't even know if I answered the
14 question.

15 MR. SHIELDS: I will just note for the
16 record that Mr. Dempsey is crying.

17 Q. Is one of the reasons that you don't bring
18 up the situation with people, that when you do, they
19 apologize to you because you become emotional like you
20 have throughout the deposition today?

21 MS. JONES: Objection.

22 A. Yes.

23 Q. Prior to the incident, on October 19th,
24 2018, had you ever seen police officers in your
25 backyard before?



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2 A. I had seen police officers from my
3 backyard. But not like in my backyard. So I -- I --
4 if you're asking if I had seen officers like on my
5 property in my backyard prior to that, no.

6 Q. Prior to the incident on October 19th,
7 2018, had you ever seen anyone in the neighborhood,
8 any -- any neighbors or people you didn't know walking
9 or running through your backyard?

10 A. No. No. It felt like the neighborhood
11 respected me more than that.

12 Q. And your backyard was completely enclosed
13 by a fence, correct?

14 MS. JONES: Objection.

15 A. Yes. It actually was four different
16 fences.

17 Q. And --

18 A. And there was -- I mean my neighbor's
19 house was longer than my house, so, you know, a lot of
20 the yard is barricaded by the house next door. Which
21 affects then -- extends to the end of the property. I
22 described it.

23 Q. And fences that the officer -- Officer
24 Algarin jumped over to get into your yard, that --
25 that's a chain-link fence when he entered the yard



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2 right before he shot Tesla?

3 MS. JONES: Objection.

4 A. Yes.

5 Q. Is that like a regular height chain-link
6 fence?

7 A. Yes.

8 Q. And so the officers could peer over that
9 fence into your yard from your neighbor's yard?

10 A. Easily.

11 Q. And on the body-camera video, not the
12 portion that Ms. Jones showed you, but the portion you
13 had seen previously, the officer jumps over your fence
14 and walks around your yard for about a minute before
15 he first exits your yard; correct?

16 MS. JONES: Objection.

17 A. Yes.

18 Q. So he had already been in your yard for
19 about a minute before he re-entered it, correct?

20 MS. JONES: Objection.

21 A. Yes.

22 Q. And yesterday, Ms. Jones asked your
23 daughter if she had found a gun or drugs in your
24 backyard, what she would have done with them.

25 At the time of the incident your daughter



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1 CHARLES R. DEMPSEY III - BY MR. SHIELDS

2 was ten years old; is that right?

3 MS. JONES: Objection.

4 A. At the time of the incident, my daughter
5 was two days from being ten years old -- or I'm sorry.
6 I misspoke.

7 My daughter was ten years old. She was
8 two days from being 11.

9 Q. At any time had you previously ever found
10 guns or drugs or anything like that in your backyard?

11 A. No. I mean weeds, but they grow.
12 Dandelions. That's what I meant by "weeds." I'm
13 sorry. I'm tired.

14 Q. By "weeds," you meant like regular garden
15 weeds and not like marijuana?

16 A. Yes. Dandelions. Cabbage patches,
17 whatever you want to call them. Bird -- again, I'm
18 deflecting.

19 Q. And how long would you estimate it takes
20 to walk from the back of your house to your front
21 door, if you were to go around the side of your house
22 and walk up on your front porch?

23 A. Seconds. I mean -- if it took more than a
24 minute, you know -- I would still define that in
25 seconds. But not long.



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1 CHARLES R. DEMPSEY III - BY MR. SHIELDS

2 Q. So having watched Officer Algarin's
3 body-camera video and knowing the location he was at
4 in your neighbor's yard, can you estimate how long it
5 would have taken him to walk from your neighbor's
6 backyard up to your front door?

7 A. Just picture the walk in your head that he
8 would have had to take. I feel like in less than two
9 minutes he would have already had my attention at the
10 door.

11 Q. So you're saying less than two minutes to
12 get from the back of your neighbor's yard where he was
13 detaining the guy in the red shirt up to your front
14 door?

15 MS. JONES: Objection.

16 A. Yes.

17 Q. Did you ever watch the body-camera video
18 of an officer walking from the front of your yard to
19 the back of your neighbor's yard?

20 A. I don't -- I don't recall -- from the
21 front of my yard to the back of the neighbor's yard?

22 Q. Yeah. One of the subsequent officers that
23 arrived -- there is a video of him walking around the
24 side of your house and entering the backyard of your
25 neighbor's yard where the guy in the red shirt was



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1 CHARLES R. DEMPSEY III - BY MR. SHIELDS

2 detained and that took about ten seconds to get from
3 your front yard to your neighbor's backyard.

4 A. I believe it.

5 MS. JONES: Objection.

6 Q. So do you think it -- Algarin could have
7 gotten to your front door and, you know -- somewhere
8 between 10 and 30 seconds?

9 MS. JONES: Objection.

10 A. If that was his objective -- if that is
11 where he was headed, yeah.

12 Q. And if he had taken that 10 to 30 seconds
13 to go to your front door and knock and ask your
14 permission to enter and search your backyard, you
15 would have given him permission?

16 A. Yes.

17 Q. When Algarin was pointing the gun at you,
18 were you afraid that if he shot -- he would shoot you?

19 A. I -- when he pointed the gun at me, I was
20 afraid he intended to shoot me.

21 Q. When he pointed the gun at you, were you
22 afraid that he could possibly shoot your daughter?

23 MS. JONES: Objection.

24 A. Yes. I had just come from my front door
25 and my daughter was in behind that door.



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1 CHARLES R. DEMPSEY III - BY MR. SHIELDS

2 Q. When you watched --

3 A. I said "front." I'm sorry. It was the
4 back door of the house.

5 Q. You said that you watched the body-camera
6 video of Officer Algarin many times in the past,
7 correct?

8 A. Yes.

9 MS. JONES: Objection.

10 A. Yes.

11 Q. Do you remember seeing in the body-camera
12 video from Officer Algarin at any point where the back
13 door moves or closes?

14 A. Yes.

15 Q. Do you know how or why the back door moved
16 or closed?

17 A. LD came to the door and saw -- saw me
18 being detained and my dog, Tesla, was at the door at
19 that point. She saw her bleeding out. And she closed
20 the door to, I believe, avoid the confrontation that I
21 was at that moment having with the officer. She told
22 me that she was scared.

23 Q. All right.

24 A. She was afraid.

25 MR. SHIELDS: All right. According to my



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1 CHARLES R. DEMPSEY III - BY MS. JONES

2 clock, that is seven hours so I think our questioning
3 time is done. So I don't have any more questions for
4 you.

5 THE WITNESS: Do you have follow-up to the
6 follow-up?

7 MR. SHIELDS: We're at seven hours.

8 MS. JONES: The seven hours don't include
9 your time.

10 MR. SHIELDS: Yes, they do. It is total
11 time.

12 MS. JONES: Is that right? I don't think
13 that is right.

14 MR. SHIELDS: It's right.

15 THE WITNESS: I don't know.

16 MR. SHIELDS: But you know what? In the
17 spirit of cooperativeness, if you have follow-up
18 questions, I'm not going to object to you asking them.

19 RE-EXAMINATION BY MS. JONES:

20 Q. Did you watch the body-worn camera with
21 your attorney in preparation for your previously
22 scheduled deposition?

23 A. Are you referring to the one a year ago?

24 Q. Yes.

25 A. Yes.



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1 CHARLES R. DEMPSEY III - BY MS. JONES

2 Q. Did you ever go to the doctor when you
3 were just in pain or felt like something was wrong but
4 couldn't identify a particular injury or sickness?

5 A. I -- that's how I had my knee diagnosis
6 done.

7 MS. JONES: Okay. That's all I have.

8 (TIME: 6:30 p.m.)

9 * * *

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W I T N E S S

Name	Examination by	Page

Charles R. Dempsey III	Ms. Jones	4-238
" "	Mr. Shields	238-258
" "	Ms. Jones	258-259

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E X H I B I T S

Exhibit	Description	Marked ID'ed
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(No Exhibits Marked)

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EXHIBITS PREVIOUSLY MARKED

Exhibit	Description	Page
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(No Previously Marked Exhibits Presented)

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D O C U M E N T R E Q U E S T S

Request	Page
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(No Documents Requested)

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C E R T I F I E D Q U E S T I O N S

Question	Page
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(No Certified Questions)

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A C K N O W L E D G M E N T

I, Charles R. Dempsey III, declare, swear and aver that I have read my testimony contained herein and that my answers are true and correct, with any exceptions noted on the errata sheet, under penalty of perjury.

Charles R. Dempsey III

I certify that this transcript was signed in my presence by Charles R. Dempsey III on the _____ day of _____, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office of _____ on this _____ day of _____, 2023.

Notary Public

My Commission Expires:



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1
2 CERTIFICATION
3 STATE OF NEW YORK:
4 COUNTY OF MONROE:

5 I, SANDRA C. HEWLETT, RPR, do hereby
6 certify that the foregoing testimony was duly sworn
7 to; that I reported in machine shorthand the foregoing
8 pages of the above-styled cause, and that they were
9 produced by computer-aided transcription (CAT) under
10 my personal supervision and constitute a true and
11 accurate record of the testimony in this proceeding;

12 I further certify that the witness
13 requests to review the transcript;

14 I further certify that I am not an
15 attorney or counsel of any parties, nor a relative or
16 employee of any attorney or counsel connected with the
17 action, nor financially interested in the action;

18 WITNESS my hand in the City of Rochester,
19 County of Monroe, State of New York.

20 
21

22 SANDRA C. HEWLETT, RPR
23
24 Freelance Court Reporter and
25 Notary Public No. 01HE5057286
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